426.

SUPREME COURT OF THE UNITED STATES.

No. 196.

JESSE HOYT, PLAINTIFF IN ERROR,

vs.

THE UNITED STATES.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

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UNITED STATES OF AMERICA, *ss:*

The President of the United States of America, to the judges of the circuit court of the United States for the southern district of [L. S.] New York, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court before you, or some of you, between the United States of America, plaintiffs, and Jesse Hoyt, defendant, a manifest error hath happened to the damage of the said Jesse Hoyt, as is said, and as appears by his complaint; we, being willing that such error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the justices of the Supreme Court of the United States, at the Capitol, in the city of Washington, District of Columbia, together with this writ, so that you have the same at the said place, before the justices aforesaid, on the first Monday of December next; that, the record and proceedings aforesaid being inspected, the said justices of the Supreme Court may cause further to be done therein to correct that error, what of right and according to the law and custom of the United States ought to be done.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, this third day of February, in the year of our Lord one thousand eight hundred and forty-seven, and of the independence of the United States the seventy-first.

ALEX'R GARDINER,
Clerk of the circuit court of the United States of America, for the Southern District of New York, in the second circuit.

WM. M. EVARTS,
Attorney for plaintiff in error.

The answer of the judges of the circuit court for the southern district of New York, in the second circuit, to the within writ, containing the citation, record, and proceedings in the within cause, as appears by the schedule annexed.

Attest: ALEX'R GARDINER, *Clerk.*

UNITED STATES OF AMERICA,
Southern district of New York, ss:

I, Alexander Gardiner, clerk of the circuit court of the United States of America, for the southern district of New York, second circuit, do hereby certify, that the writings annexed to this certificate are true copies of their respective originals, on file and remaining of record in my office.

In testimony whereof, I have caused the seal of the said court to be hereunto affixed, at the city of New York, in the southern district of New York, second circuit, this ninth day of October, in the year of our Lord one thousand eight hundred and forty-seven, and of the independence of the United States the seventy-second.

[L. S.]

ALX'R GARDINER, *Clerk*.

By the Hon. Samuel R. Betts, one of the judges of the circuit court of the United States, for the southern district of New York, in the second circuit—to the United States of America.

Whereas, Jesse Hoyt lately issued out of the Supreme Court of the United States at the city of Washington, a writ of error directed to the judges of the circuit court of the United States for the southern district of New York, in the second circuit, stating, that in the record and proceedings, as also in the rendition of the judgment of a plea in the said court before the judges thereof, between the United States of America, plaintiffs, and Jesse Hoyt, defendant, a manifest error hath happened, to the great damage of the said Jesse Hoyt.

And whereas, for the correction of that error in due manner, the said writ has been issued, returnable at the next stated Supreme Court of the United States, to be held at the City of Washington, in the District of Columbia, on the first Monday of December next: You are, therefore, hereby cited to appear before the said Supreme Court, at the city of Washington, on the said first Monday of December next, to do and receive what may appertain to justice to be done in the premises.

Given under my hand at the city of New York, in the southern district of New York, in the second circuit, the 27th day of November, in the year of our Lord one thousand eight hundred and forty-seven, and of the independence of the United States the seventy-second.

SAM'L R. BETTS.

Due service of this citation is admitted, on the part of the United States, by B. F. Butler, U. S. attorney for the southern district of New York.

UNITED STATES CIRCUIT COURT,
For the southern district of New York, in the second circuit.

Pleas in the circuit court of the United States for the southern district of New York, in the second circuit, before the justices of the same court of the stated term of April, to wit, of the sixteenth day of September, in the year of our Lord one thousand eight hundred and forty-one. Witness the Hon. Smith Thompson, justice of the said court.

JAMES W. METCALF, *Clerk*.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Be it remembered, that on the first Monday of April, in this same term, before the circuit court of the United States, for the southern dis-

trict of New York, in the second circuit, before the justices of the same court, comes Ogden Hoffman, attorney of the said United States of America, for the said southern district, who prosecutes for the United States on this behalf; and on behalf of the said United States brings into the said court of the said United States now here, a certain bill of the United States against Jesse Hoyt, having been personally served, &c., in a plea of trespass on the case, on promises; which said bill follows in these words, viz:

SOUTHERN DISTRICT OF NEW YORK, *ss:*

The United States of America, plaintiffs in this suit, by Ogden Hoffman, their attorney, complain of Jesse Hoyt, defendant in this suit, being in custody, &c., of a plea of trespass on the case upon promises.

For that whereas the said defendant, on the first day of July, in the year of our Lord one thousand eight hundred and forty-one, at the city of New York, in the southern district of New York, and within the jurisdiction of this court, was indebted to the said plaintiff in the sum of four hundred thousand dollars, lawful money of the United States of America, for so much money before that time lent and advanced by the said plaintiffs to the said defendant, and at the special instance and request of the said defendant.

And being so indebted, the said defendant, in consideration thereof, afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, undertook, and then and there faithfully promised the said plaintiffs, well and truly to pay unto the said plaintiffs the said sum of money last above mentioned, when the said defendant should be thereunto afterwards requested.

And whereas also the said defendant, afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, was indebted to the said plaintiffs in the further sum of four hundred thousand dollars, like lawful money as aforesaid, for so much money before that time paid, laid out, and expended by the said plaintiffs, to and for the use of the said defendant, and at the like special instance and request of the said defendant.

And being so indebted, the said defendant, in consideration thereof, afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, undertook, and then and there faithfully promised the said plaintiffs well and truly to pay unto the said plaintiffs the said sum of money last above mentioned, when the said defendant should be thereunto afterwards requested.

And whereas also the said defendant afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, was indebted to the said plaintiffs in the further sum of four hundred thousand dollars, like lawful money as aforesaid, for money before that time had and received by the said defendant to and for the use of the said plaintiffs.

And being so indebted, the said defendant, in consideration thereof, afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, undertook, and then and there faithfully promised the

said plaintiffs, well and truly to pay unto the said plaintiffs the said sum of money last above mentioned, when the said defendant should be thereunto afterwards requested.

And whereas also the said defendant afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, accounted, together with the said plaintiffs, of and concerning divers other sums of money before that time due and owing from the said defendants to the said plaintiffs, and then and there being in arrear and unpaid, and upon such accounting the said defendant then and there was found to be in arrear, and indebted to the said plaintiffs in the further sum of four hundred thousand dollars, of like lawful money as aforesaid.

And being so found in arrear, and indebted to the said plaintiffs, the said defendant, in consideration thereof, afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, undertook, and then and there faithfully promised the said plaintiffs well and truly to pay unto the said plaintiffs the said sum of money last above mentioned, when the said defendant should be thereunto afterwards requested.

Nevertheless, the said defendant (although often requested, &c.) has not yet paid the said several sums of money above mentioned, or any or either of them, or any part thereof, to the said plaintiffs, but to pay the same, or any part thereof, to the said plaintiffs, the said defendant has hitherto wholly refused, and still does refuse, to the damage of the said plaintiffs of four hundred thousand dollars, and thereof the said plaintiffs bring suit, &c.

And the said defendant, by Edgerton & Kissam, his attorneys, comes and defends the wrong and injury, when, &c., and says that he did not undertake and promise in manner and form as the said plaintiffs in this suit have above thereof declared against the said defendant; and of this he puts himself upon the country.

Therefore, the issue above joined is ordered by the said court to be tried at the circuit court appointed to be held at the City Hall, in the city of New York, in and for the southern district of New York, in the second circuit, on the first Monday of April, in the year eighteen hundred and forty-two.

At which day, before the court aforesaid, at the place aforesaid, comes Ogden Hoffman, the attorney of the said United States, and Edgerton & Kissam, the attorneys of the said defendant.

And because the said circuit court of the United States, before the said justices thereof now here, are not yet advised what judgment to give of and upon the premises, therefore the process thereof is continued between the parties aforesaid, of the plea aforesaid, in this same court, before the justices thereof, until the first Monday of April, in the year eighteen hundred and forty-three. And the same day is given to the parties aforesaid, at the same place, to hear the judgment of the said court thereupon; at which said last mentioned day, before the said justices, at the place last aforesaid, comes as well the said plaintiffs, by their attorney aforesaid, as the said defendant, Jesse Hoyt, by his attorney aforesaid; and the jurors of the jury summoned to try the said

issue also come, being called, who to speak the truth of the matters within contained, being chosen, tried, and sworn, say, upon their oath, that the said defendant did undertake and promise in manner and form as the said plaintiffs have within complained against him. And they assess the damages of the said plaintiffs, by reason of the premises, over and above their costs and charges by them about their suit in this behalf expended, to two hundred and twenty thousand eight hundred and thirty-seven dollars and eighty-six cents, and, for their costs and charges, to six cents.

Therefore, it is considered that the said plaintiffs do recover against the said defendant their said damages, costs, and charges, by the jurors aforesaid in form aforesaid assessed, and also two hundred and forty-five dollars fifty-three cents for his said costs and charges by the said court now here adjudged of increase to the said plaintiffs, and with their assent; which said damages, costs, and charges, in the whole, amount to two hundred and twenty-one thousand and eighty-three dollars and thirty-nine cents.

And the said defendant, in mercy, &c.

Judgment signed this seventeenth day of May, in the year one thousand eight hundred and forty-three.

(Signed) J. W. METCALF, *Clerk*.
GEO. W. MORTON, *D'y Clerk*.

Circuit court of the United States, for the southern district of New York, in the second circuit.

As yet of the stated term, commencing on the first Monday of April, in the year of our Lord one thousand eight hundred and forty-three.

SOUTHERN DISTRICT OF NEW YORK, *ss:*

Be it remembered, that, on the fourteenth day of April, of this same stated term of the court of the United States for the southern district of New York, in the second circuit, before the honorable Smith Thompson, associate justice, and the honorable Samuel R. Betts, district judge in the said circuit court, the issue within contained, joined between the said United States of America, plaintiffs, and Jesse Hoyt, defendant, came on to be tried; and the said parties, by their respective attorneys, before the said judges came, and the jurors of the jury, in this behalf duly summoned, also came, and to say the truth also in this behalf are elected, tried, and sworn.

And the counsel of the said plaintiffs, to maintain and prove the said issue on their behalf, gave in evidence that the said defendant had been duly appointed collector of the port and district of New York, and entered upon the duties of said office on the twenty-ninth day of March, in the year 1838, and that he ceased to be such collector, and went out of office at the close of the day of the second of March, in the year 1841.

And the said plaintiffs further produced and gave in evidence the following transcripts, under the seal of the Department of the Treasury of the United States:

1st. Transcript dated February 9th, 1842, in the words and figures following, viz:

TREASURY DEPARTMENT, *Register's Office*, *February* 9, 1842.

Pursuant to the act of Congress of March 3, 1797, entitled "An act to provide more effectually for the settlement of accounts between the United States and receivers of public money," I, Thomas L. Smith, Register of the Treasury Department, do hereby certify, that the annexed is a true transcript from the books and proceedings of the Treasury.

T. L. SMITH, *Register*.

Be it remembered that Thomas L. Smith, esq., who certified the foregoing transcript, is now, and was at the time of doing so, Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof I, Walter Forward, Secretary of the Treasury of the United States, have hereunto subscribed my name, and caused to be affixed the seal of this Department, at the city of Washington, this ninth day of February, in the year of our Lord 1842.

[L. S.]

W. FORWARD,
Secretary of the Treasury.

No. 909. TREASURY DEPARTMENT, *First Auditor's Office*, *January* 1*st*, 1839.

I have examined and adjusted the accounts of Jesse Hoyt, Collector of the Customs for the district of New York, in the State of New York, commencing on the 29th and ending on the 31st day of March, 1838, and find that he is chargeable with the following sums, viz:

To amount of bonds and cash received from Samuel Swartwout, his predecessor, for which said Swartwout has received credit per report No. 811, viz:			
Book A, containing a list of bonds not yet due		$1,934,415 16	
B, containing a list of extended bonds not yet due		2,905,458 97	
C, containing a list of bonds received under the fire law		927,926 30	
D, containing a list of railroad iron bonds extended		260,278 80	
E, containing a list of bonds in suit		2,302,525 63	
F, containing the balances of general bonds for wines, spirits, &c.		17,306 90	
		8,347,911 76	
To cash per receipt of March 29, 1838	15,000 00		
ditto at sundry times, per receipts and abstracts	8,229 94		
		23,229 94	
			$8,371,141 70
Duties on merchandise to March 31, 1838			198,551 48
Interest on bonds			2,322 87
			$8,572,016 05

I also find that he is entitled to the following credits, viz:		
By payments to inspectors and measurers to March 31, 1836		$9,980 54
debentures paid		10,339 62
discounts allowed for prompt payment of duties		6 17
disbursements in relation to appraisements		220 28
amounts of the following warrants in favor of the treasurer, viz.		
No. 4205, dated March 31, 1838, for	$200 00	
7, dated July 25, 1838	67,693 90	
		67,893 90
amount of three bonds of Willis & Robinson, principals, Wm. Taggard, surety, transferred to him by his predecessor in office, as in suit outstanding, the same having been previously paid and covered by warrant No. 4204, to credit of the late collector, per report, No. 811, viz:		
one bond dated March 16, 1831, for	953 00	
one bond dated April 14, 1831	72 00	
one bond dated April 14, 1831	1,204 00	2,229 00
		90,669 51
commission on $65,313 28, at 1-6 of 1 per cent		108 88
And that the balance due to the United States on the 1st day of April, 1838, consisted of the following particulars, viz:		
In uncollected bonds not due	$6,029,412 21	
deposite bonds	16,111 95	
bonds in suit	2,302,525 63	
	8,348,049 79	
Cash on hand and suspense accounts	133,187 87	8,481,237 66
		$8,572,016 05

As will appear from the statement and accounts herewith transmitted for the decision of the Comptroller of the Treasury thereon.

A. MAHON, *Acting Auditor*.

To JAMES N. BARKER, Esq., *Comptroller of the Treasury*.

TREASURY DEPARTMENT, *Comptroller's Office, January* 16, 1839.

Admitted and certified.

J. N. BARKER, *Comptroller*.

To T. L. SMITH, Esq., *Register*.

DIFFERENCES.

The balance due the United States, per his account ending March 31, 1838, is		$8,475,697 97
Add cash received by him from his predecessor at sundry times, per receipts and abstracts, and not credited by him	$8,229 94	
Commission over charged	38 75	8,268 69
		8,483,966 66
Add amount of bonds over credited, book E, the abstract and receipt being for	$2,302,525 63	
Credited by collector in this account	2,303,025 63	
Making a difference of	$500 00	
Amount of three bonds of Willis & Robinson, principals, Wm. Taggard, surety, transferred by his predecessor in office, as in suit outstanding, the same having been previously paid	2,229 00	2,729 00
		$8,481,237 66

TREASURY DEPARTMENT, *First Auditor's Office, December* 19, 1838.

Examined and stated by SAMUEL PETTIGREW.

Comptroller's Office, January 16*th*, 1839

THOMAS FERAN.

No 930.

TREASURY DEPARTMENT, *First Auditor's Office, February* 2, 1839.

I have examined and adjusted the accounts of Jesse Hoyt, collector of the customs for the district of New York, in the State of New York, commencing on the first day of April, and ending on the thirtieth day of June, 1838, and find that he is chargeable with the following sums, viz:

To balance of his account, ending March 31, 1838, per report No. 909		$8,481,237 66
Duties on merchandise to June 30, 1838		2,184,090 30
Ditto on tonnage		3,297 08
Extra tonnage duty on certain Spanish vessels		1,017 41
Light money received		1,406 50
Marine hospital collections	$2,421 07	
Deduct commission at 1-6th of 1 per cent	4 04	
		2,417 03
Interest received on bonds		82,357 93
Ditto ditto woollens		375 38
Amount of the following warrant on the treasurer, viz:		
No. 8352, dated April 21, 1838, for		10,000 00
Costs of suit refunded		42 15
		$10,766,241 44

I also find that he is entitled to the following credits, viz:

By payments to inspectors, weighers, &c, to June 30, 1838		79,334 01
Contingent expenses paid		4,286 00
Debentures paid		179,327 79
Drawback on domestic distilled spirits		543 40
Bounty on pickled fish		14 00
Store account		4,070 80
Disbursements for the revenue cutters		6,471 60
Do. do. revenue boats		2,802 25
Disbursements in relation to appraisements		17,837 68
Duties on merchandise refunded		98,460 44
Do. wines do		41 37
Do. railroad iron do		91 37
Amount of bonds for duties on railroad iron can'd		114,599 78
Discounts allowed for prompt payment of duties		755 27
Costs of suit		5,277 13
Amount of costs paid Philip Hamilton for special services		355 00
Amount paid the following collectors, per order of the Comptroller for which they have been debited, viz:		
Jesse Carrier, of Cape Vincent, per report No. 653	943 65	
E. H. Harris, of Sandusky, per report No. 757	377 03	
		1,320 68
Amount of the following warrants in favor of the Treasurer, viz, No. 4285, dated June 30, 1838, for	4,096 26	
4364, " "	542,027 17	
4365, " "	4,680 08	
		550,803 51
Six months salary to the following officers to June 30, 1838, viz:		
Assistant collector of the port of Jersey	500 00	
Inspector of Albany	547 50	
Surveyor of do.	75 00	
		1,122 50

By Commission on $957,435 42 a 1-6th of 1 per cent...	.....	$1,595 73
And that the balance due the United States on the 1st day of July, 1838, consisted of the following particulars, viz:		
In uncollected bonds not due $4,729,331 62		
Deposite bonds 32,419 44		
Bonds in suit 2,354,921 46		
	$7,116,672 52	
Cash on hand.....	2,580,458 61	
		9,697,131 13
		$10,766,241 44

As will appear from the statement and accounts herewith transmitted for the decision of the Comptroller of the Treasury thereon. J. MILLER, *First Auditor*.

To JAMES N. BARKER, Esq.,
Comptroller of the Treasury.

TREASURY DEPARTMENT, *Comptroller's Office, March* 30, 1839.

Admitted and certified, J. N. BARKER, *Comptroller*.

To T. L. SMITH, Esq., *Register*.

DIFFERENCES.

The balance due the United States, per his account ending June 30, 1838, is.....	.....	$7,824,612 22
Add cash received by him from his predecessor at sundry times for receipts and abstracts not credited by him per last statement.....	$8,229 94	
Commission overcharged per last statement $38 75		
Do. do. in present account 3,124 31		
	3,163 06	
Amount deposited in Bank of America, debited in present account, not covered by warrant	2,700 00	
Amount of Treasury notes debited in do. and not covered by warrant, (old issue)	1,856,075 76	
Do. (new issue)	7,371 78	
Amount of interest on the four following bonds of Charles W. Goodrich, paid in New Orleans, charged in this statement, and not credited by him, viz.		
No. 4919, of January 22, 1816 for $316 43		
No. 875, of April 13, " " 1,479 55		
4927, " " " " 180 22		
4920, of July 1, " " 316 43		
	2,387 45	
		1,879,927 99
		$9,704,540 21
Deduct amount of bonds over credited, book *E*, per last statement	500 00	
Amount three bonds of Willis & Robinson, transferred to him by his predecessor in office, as in suit outstanding having been previously paid per last statement.....	2,229 00	
Amount of warrant No. 4365, dated June 30, 1838, for payment made in New Orleans by Hyde & Goodrich, credited in this statement, and not charged by him	4,680 08	
		7,409 08
		$9,697,131 13

Note.—The following errors appear in the account of interest on bonds, which the collector will explain or correct, viz:

Bond No. 2210, Wolf & Clark, January 28th, 1837, $763; amount credited, $22 11, should be $31 96, difference	$9 85
Bond No. 5536, Conton & Pellingright, March 13th, 1837, $388; amount credited, $17 46, should be $39 76; difference	22 30
	$32 15
Deduct over credit on Bond No. 6458, W. Whitewright, of March 27, 1837, for $1,059, should be $37 06; amount credited, $41 36; difference	4 20
Amount short credited	$27 99

TREASURY DAPARTMENT, *First Auditor's Office, January* 31*st*, 1839.

Examined and stated by

SAMUEL PETTIGREW.

Comptroller's Office, March 29*th*, 1839.

THOMAS FERAN.

No. 1067.

TREASURY DEPARTMENT,
First Auditor's Office, March 30*th*, 1839.

I have examined and adjusted the accounts of Jesse Hoyt, collector of the customs for the district of New York, in the State of New York, commencing on the 1st day of July and ending on the 30th day of September, 1838, and find that he is chargeable with the following sums, viz:

To balance of his account ending June 30, 1838, per report No. 930		$9,697,131 13
Duties on merchandise to Sept. 30, 1838		3,187,321 79
Do. on tonnage		957 94
Do. extra, on certain Spanish vessels		304 03
Light money received		533 88
Marine hospital collections	$3,247 90	
Deduct commissions at 1-6 of 1 per cent.	5 41	
		3,242 49
Interest received on bonds		36,180 87
Do. woollens		2,085 19
		$12,927,757 32

I also find that he is entitled to the following credits, viz:

By payments to inspectors to Sept. 30, 1838	$84,518 33
Contingent expenses paid, " "	4,142 37
Debentures paid	152,499 88
Drawback on domestic distilled spirits	614 08
Ditto on double refined sugar	4,547 20
Bounty on pickled fish	236 40
Store accounts	4,069 05
Disbursements for revenue cutters	6.011 65
Ditto for revenue boats	3,002 55
Ditto in relation to appraisements	19,259 78
Duties on merchandise refunded	14,108 19
Amount of bonds for duties on railroad iron cancelled	12,657 88
Discounts allowed for prompt payment of duties	1,350 01
Costs of suit	2,458 56

By amount paid the following collectors, per order of the comptroller, for which they have been debited, viz:		
G. W. Brent, of Alexandria, per report No. 743....	$2,500 00	
J. W. Crawford, New London, " " 716....	1,200 00	
Conway Whittle, Norfolk, Va., " " 788....	5,000 00	
D. N. Barney, Sackett's Harbor, " " 715....	650 00	
C. C. P. Hunt, Miami, Ohio, " " 514....	73 42	
Abraham Windell, Michilimackinac, " " 756....	2,500 00	
John P. Osborne, Sag Harbor, " " 822....	750 00	
Thomas Loomis (late) Sackett's Harbor, " 717....	498 49	
C. C. P. Hunt, Miami, Ohio, " " 702....	182 36	
Edwin J. Kelso, Presqu'isle, " " 736....	2,500 00	
G. W. Clinton, Buffalo, " " 838....	900 00	
J. Currier, Cape Vincent, " " 777....	800 00	
M. D. Canfield, Great Egg Harbor, " " 827....	150 00	
J. W. Crawford, New London, " " 877....	1,200 00	
Smith Stilwell, Oswegatchie, " " 875....	1,000 00	
D. K. Schenck, Perth Amboy, " " 798....	1,000 00	
		$20,903 27
By amount of the following warrants in favor of the treasurer, viz:		
No 4514, dated Sept. 30, 1838, for	3,016,082 08	
4396, dated Sept. 24, 1838, for	7,371 78	
4435, dated Sept. 30, 1838, for	4,024 27	
		3,027,478 13
Three months' salary to the following officers, viz:		
Assistant collector of the port of Jersey.....	250 00	
Surveyor of Albany	37 50	
		287 50
Commission on $3,345,019.25, at 1-6 of 1 per ct....	.....	5,975 03
Balance due the United States on the 1st of October, 1838, consisted of the following particulars, viz:		
In bonds uncollected..... $4,161,468 44		
" in suit 2,239,587 07		
Deposit bonds 25,775 66		
	6,526,831 17	
Cash on hand.....	3,037,206 29	9,564,037 46
		$12,927,757 32

As will appear from the statement and accounts herewith transmitted for the decision of the Comptroller of the Treasury thereon.

J. MILLER, *First Auditor.*

To JAMES N. BARKER, Esq., *Comptroller of the Treasury.*

TREASURY DEPARTMENT,
Comptroller's Office, May 4th, 1839.

Admitted and certified.

J. N. BARKER, *Comptroller.*

To T. SMITH, Esq.

DIFFERENCES.

The balance due the United States per his account ending Sept. 30, 1838, is	.....	$7,497,681 42
Add commissions overcharged per last statement..... $3,163 06		
Ditto in present account 336 47		
	$3,499 53	
Amount deposited in Bank of America per last statement, and not covered by warrant.....	2,700 00	

Amount Treasury notes debited per last statement, (old issue,) not yet covered by warrant	$1,856,075 76		
Ditto in present account, (old issue,) not yet covered by warrant	178,826 23		
Ditto ditto, (new issue,) not covered by warrant	9,350 04		
		$2,404,252 03	
Interest on four bonds, Charles W. Goodrich, per last statement		2,387 45	
Balance Treasury drafts debited in present account, not yet covered by warrant		19,980 00	
The following bills disallowed, charged in abstract of disbursements in relation to appraisements, it being the duty of the regular appraisers to perform the same, and in case of dissatisfaction the merchant has the privilege of choosing others at his own expense, viz:			
C. Smith & Halstead, appraising woollens	$40 00		
Isaac Brown, examining tallow	50 00		
David I. Brown, ditto	50 00		
J. H. Townsend, appraising damaged wheat	10 00		
Victor Giraud, estimating French lamps	5 00		
		155 00	
The following bills of costs suspended, no proof of the disposition of the property accompanying them. In case the United States recover, the defendants were liable for costs. If otherwise the court should certify there was reasonable grounds for the suits, viz:			
Wm. M. Price, brig Dunlap and ship Transit	$39 34		
W. C. H. Waddell, ditto	72 85		
F. J. Betts, ditto	$42 06		
" "	118 86		
	160 92		
		273 11	$2,073,247 12
			9,570,928 54
Add amount over-paid John M'Grath, inspector, viz:			
Amount paid		276 00	
His receipt for		258 00	
Difference paid by ship			18 00
			9,570,946 54
Deduct three bonds, Willis & Robinson, principals, transferred by his predecessor in office as in suit outstanding. The same having been previously paid per last statement		2,229 00	
Amount of warrant No. 4365, dated June 30, 1838, for payment of bonds of Hyde & Goodrich, credited to him second quarter of 1838, and not charged by him		4,680 08	
			6,909 08
			$9,564,037 46

NOTE.—The following errors appear in abstract of interest on revenue bonds, which the collector is requested to explain or correct in his next account, viz:

Page 2, No. 1978, of January 26, 1837, $1,335, J. A. Chartie & Co. Amount credited, $8.10; should be $80.10. Difference	$72 00
Page 24, No. 9015, of May 19, 1837, $2,479, B. D. Forest. Amount credited, $45.84; should be $110.73. Difference	65 89
Short credit in addition of page 17	100 00
	235 89

Deduct page 11 over credit of No. 7700 of April 20, 1830, $284, W. W. D. Forest. Amount credited, $17.74; should be $12 78. Difference $4 96

$230 93

Arnold Aymar's bill of copper for revenue cutter Rush is stated at 3,393 pounds, at 25 cents, and extended, 747.50. Should be, if the quantity and price be correct, $848.25. Difference, $100.75.

The following is a copy of the naval officer's certificate to bonds paid, viz:

NAVAL OFFICE, NEW YORK, *March* 14, 1839.

I certify that the foregoing abstract of bonds paid has been examined in this office and found to be correct, with the following exceptions: eight bonds, amounting in the aggregate to $2,826.91, were paid in third quarter; which bonds arrived at maturity in the second quarter of 1838. Two bonds, amounting to $914.13, were paid in the third quarter, which arrived at maturity in the fourth quarter of 1838. All of the above bonds, amounting to $3,741.64, are not included in this abstract. There are also six bonds, amounting to $1,166.60, included in this abstract, which were not paid until the fourth quarter of 1838. It is hoped such irregularities will not occur in future.

The collector makes no return for storage. Should not a considerable sum be received from that source in his district?

TREASURY DEPARTMENT,
First Auditor's Office, March 29th, 1839.

Examined and stated by— SAMUEL PETTIGREW.

COMPTROLLER'S OFFICE, *April 24th*, 1839.

THOMAS FERAN.

Then followed in said transcript the several accounts following, viz:

Account No. 1152, dated May 24th, 1839, containing the accounts of said Jesse Hoyt, as collector, from the 1st day of October, 1838, to the 31st day of December, 1838, commencing with the balance of $9,564,037.46, found by account No. 1067, and ending with a balance of $8,644,037.17.

Account No. 1356, dated August 13th, 1839, containing the accounts of said Jesse Hoyt, as collector, from the 1st day of January, 1839, to the 31st day of March, 1839, commencing with the balance of $8,644,037.17, found by acccount No. 1152, and ending with a balance of $7,873,404.93.

Account No. 1526, dated November 12th, 1839, containing the accounts of said Jesse Hoyt, as collector, from the 1st day of April, 1839, to the 30th day of June, 1839, commencing with the balance of $7,873,404.93, found by account No. 1356, and ending with a balance of $8,066,622.37.

Account No. 1683, dated February 20th, 1840, containing the accounts of said Jesse Hoyt, as collector, (*under his bond dated March 22d*, 1838,) from the 1st day of July, 1839, to the 30th day of September, 1839, commencing with the balance of $8,066,622 37, found by account No. 1526, and ending with a balance of $8,469,638.34.

Account No. 1847, dated May 21st, 1840, containing the accounts of said Jesse Hoyt, as collector, (*under his bond dated November 30th*, 1838,) from the 1st day of October, 1839, to the 13th day of December, 1839, commencing with the balance of $8,469,638.34, found by account No. 1683, and ending with the balance of $7,344,589.42.

Account No. 1938, in the words and figures following, viz:

No. 1938. TREASURY DEPARTMENT,
First Auditor's Office, June 26th, 1840.

I have examined and adjusted the accounts of Jesse Hoyt, collector of the customs for the district of New York, in the State of New York, (*under his bond dated November 30th*, 1838,) commencing October 1st and ending December 13th, 1839, and find that he is chargeable with the following sums, viz:

To balance of his account, per report No. 1847 -	-	$7,344,589 42
		$7,344,589 42

I also find that he is entitled to the following credits, viz:

By amount of bonds outstanding, December 13, 1839, in the first series of his account rendered under bond dated November 30, 1838, with which he has been debited per report No. 1937, viz:		
By uncollected bonds not due.....	$3,820,560 94	
By bonds in suit.....	2,428,900 72	
By deposite bonds.....	20,127 72	
		$6,269,589 38
By payments to weighers, &c., for their expenses, being the difference between their fees accruing in 1838, and amount of compensation paid them in that year.....	12,178 75	
Deduct this sum paid markers in 1838, more than their fees amounted to in that year, and for which the Collector has already received credit in the customs, the same being payable under act of July 7th, 1838, and included in report No. 1911.....	2,394 18	
		9,784 57
By amount of the following warrants in favor of the Treasurer, viz:		
No. 153, dated Dec. 20, 1839, (T. notes 4th quarter 1839)	4,676 76	
No. 157, dated Dec. 23, 1839, (T. notes 4th quarter 1839)	30,720 94	
No. 158, dated Dec. 1839, (T. notes 4th quarter 1839)	241,736 54	
No. 188, dated Dec. 31, 1839, (M. H. D. 3d quarter 1839)	4,023 11	
No. 228, dated Dec. 1839, (L. H. D. 3d quartes 1839)	19,199 28	
No. 229, dated Dec. 1839, (L. H. D. 3d quarter 1839)	17,961 20	
No. 252, dated Dec. 1839, (L. H. D. 3d quarter 1839)	24,580 00	
Part of No. 24, dated February 6, 1840, (T. notes 4th quarter 1839.) The balance of this warrant will be to his credit in account of 1st quarter 1840.....	1,261 79	
No. 25, dated Feb. 6, 1840, (T. notes 4th quarter 1839)	155,475 68	
		499,635 30
By commissions on $510,270 32 at 1-6 of 1 per cent.....	.....	850 45
And that the balance due to the United States in cash on hand on the 13th of December, 1839, amounted to.....	.....	564,729 72
		$7,344,589 42

As will appear from the statement and accounts herewith transmitted for the decision of the Comptroller of the Treasurer thereon.

J. MILLER, *First Auditor.*

To JAMES N. BARKER, ESQ.,
Comptroller of the Treasury.

TREASURY DEPARTMENT,
Comptroller's Office, July 29th, 1840.

Admitted and certified.

J. N. BARKER, *Comptroller.*

To T. L. SMITH, Esq., *Register.*

The balance due the United States per his account ending December 13, 1839, is		$6,797,733 55
Add commissions overcharged per last statement $975 31		
Less commissions short charged in present acc't 850 45		
	$124 86	
Add amount debited for official expenses of the markers in 1st, 2d, 3d, 4th quarters, 1st series, 1839, disallowed	1,350 90	
Amount of excess of deposites for unascertained duties arising in the 2d quarter 1839 $7,303 35		
3d quarter 1839 21,116 04		
4th quarter 1839, 1st series 13,289 55		
	41,708 94	
Amount of duties taken and secured and erroneously credited in his account of fines, penalties, and forfeitures, in the 4th quarter 1838, and in the 1st, 2d, and 3d quarters 1839, debited him 3d quarter 1839, and not credited	11,498 31	
Amount overpaid C. H. Riell, (guager,) 3d quarter 1839	2 00	
Amount of costs suspended 3d quarter 1838, not chargeable to the customs	154 25	
Amount of ditto per W. C. H. Waddell's bill of costs in sundry cases suspended. The judge's certificate of probable cause should accompany it. The charge for commissions should also be explained	927 47	
Amount of counsel fees paid B. F. Butler, esq., district attorney, 3d quarter 1839, disallowed	75 00	
E. Riell's bill for labor hire, guaging, and marking, 3d quarter 1839, disallowed	16 00	
Amount overcharged in relation to appraisements per last statement	3 17	
Amount paid special appraisers 4th quarter 1839, (1st series,) suspended for authority	295 00	
Amount debited in revenue cutter abstract, 3d quarter 1839, per last statement, disallowed	62 62	
Amount debited in revenue cutter abstract, 4th quarter 1839, 1st series, viz: Paid Captain Polk for copying report on light-houses. The collector should credit this sum and charge the amount in his account of Light H. D.	4 00	
Amount of Lieut. Bushwood's and Chaddock's bill for five days' travelling expenses, not admissible when mileage is allowed $7 50		
Add commission on the above 12		
Commissions overcharged, arising from his not deducting sales of old rope before calculating the same 43		
	8 05	
Amount of interest on Treasury notes more than covered by warrants, 2d quarter 1838, and 1st quarter 1839	64	56,231 21
		$6,853,964 76
Deduct amount of credits per last statement, not charged by him	$9,861 09	
Amount of payment to weighers for their expenses, being the difference between their fees accruing in 1838, and amount of compensation paid them in that year, credited in this statement and not charged by him	9,784 57	
Amount of bonds outstanding to his credit in this statement, with which he has been debited, per report No. 1937	6,269,589 38	6,289,235 04
		$564,729 72

TREASURY DEPARTMENT,
First Auditor's Office, June 19th, 1840.

Examined and stated by

SAMUEL PETTIGREW.

THOMAS FERAN, *Comptroller's Office, July 28th*, 1840.

Account No. 2106, dated August 15th, 1840, continuing the accounts of said Jesse Hoyt, as collector, (*under his bond dated November 30th*, 1838,) from account No. 1938, commencing with the balance of $564,729 72, found by that account, and exhibiting a balance on the said 15th day of August, 1840, of $546,080 64.

Account No. 2373, dated December 19th, 1840, continuing the accounts of said Jesse Hoyt, as collector, (*under his bond dated November 30th*, 1838,) from account No. 2106, commencing with the balance of $546,080 64, found by that account, and exhibiting a balance on the said 19th day of December, 1840, of $13,013 37.

Account No. 2923, dated August 16th, 1841, continuing the accounts of said Jesse Hoyt, as collector, (*under his bond dated November 30th*, 1838,) from account No. 2373, commencing with the balance of $13,013 37, found by that account, and exhibiting a balance on the said 16th day of August, 1841, of $10,247 24.

The foregoing accounts, Nos. 1152, 1356, 1526, 1683, 1847, 2106, 2373, and 2923, were adjusted and authenticated by the proper officers of the Treasury, in the same manner as accounts Nos. 909, 930, 1067, and 1938, and are omitted for the sake of brevity, with leave to either party to produce and refer to the same, and with the express understanding that neither party shall be prejudiced by the omission to insert the same in this bill of exceptions.

Second Treasury transcript, also dated Feb. 9th, 1842, *as follows*:

TREASURY DEPARTMENT,
Register's Office, Feb. 9, 1842.

Pursuant to the act of Congress of March 3, 1797, entitled "An act to provide more effectually for the settlement of accounts between the United States and receivers of public money," I, Thomas L. Smith, Register of the Treasury Department, do hereby certify, that the annexed is a true transcript from the books and proceedings of the Treasury.

T. L. SMITH, *Register*.

Be it remembered, that Thomas L. Smith, esq., who certified the foregoing transcript, is now, and was at the time of doing so, Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof I, Walter Forward, Secretary of the Treasury of the United States, have hereunto subscribed my name and [L. S.] caused to be affixed the seal of this Department, at the city of Washington, this ninth day of February, in the year of our Lord 1842.

W. FORWARD,
Secretary of the Treasury.

No. 1937. TREASURY DEPARTMENT, *First Auditor's Office, June 26th*, 1840.

I have examined and adjusted the accounts of Jesse Hoyt, collector of the customs for the district of New York, in the State of New York, (*under his bond dated November 30th*, 1838, *and additional bond of December 14th*, 1839,) second series, commencing December 14th, and ending December 31st, 1839, and find that he is chargeable with the following sums, viz:

To amount of bonds outstanding December 13, 1839, per report No. 1847, in the first series of his account rendered under bond, dated November 30, 1838, and for which said account will receive credit, viz:		
To uncollected bonds not due	$3,820,560 94	
bonds in suit	2,428,900 72	
deposite bonds	20,127 72	
		$6,269,589 38
duties on merchandise to December 31, 1839		198,430 94
marine hospital collections	518 44	
Deduct commissions at 1-6 of 1 per cent	87	
		517 57
Interest received on bonds	297 04	
Interest received on woollens	1.914 40	
		2,211 44
To fines, penalties, and forfeitures		19,250 00
To amount of warrant No. 5104, to his credit in this statement, paid by his predecessor from customs for payments under the French indemnity, and for which said predecessor has already received credit		5,933 45
To amount of excess of deposites for unascertained duties arising in the month of December, 1839		5,686 48
		$6,501,619 26

I also find that he is entitled to the following credits, viz:

By payment, to inspectors, &c., to March 31, 1839		$33,729 25
Contingent expenses paid		633 07
Debentures paid		80,182 94
Drawback on domestic distilled spirits		701 84
ditto refined sugar		13,129 35
Disbursements for the revenue cutters		2,351 72
ditto revenue boats		1,018 08
ditto in relation to appraisements		5,245 54
Duties on merchandise refunded	$45 49	
Ditto on tonnage	152 28	
		197 77
Discounts allowed for prompt payment of duties		112 61
Costs of suit paid B. F. Butler, and others		1,775 48
Allowances to clerks in office of Naval Officer		104 00
Amount of the following warrants in favor of the treasurer, viz:		
Part of No. 255, dated Dec. 31, 1839, (tr'y drafts) the other part to his credit per report No. 1847	498,067 45	
No. 5104, dated December 31, 1839	5,933 45	
		504,001 00
Amount paid the following collectors, per orders of the Comptroller, with which they have been debited, viz:		
George W. Clinton, Buffalo, per receipt 1736	888 48	
John P. Osborne, Sag Harbor, " 1722	800 00	
Charles F. Lester, N. London, " 1768	1,180 00	
Smith Stilwell, Oswegatchie, " 1750	1,400 00	
Wm. Littlefield, Newport, " 1758	5,000 00	
		9,268 48

Amount of duties remitted in pursuance of the act, entitled "An act to remit the duties of certain goods destroyed by fire at the late conflagration in the city of New York"		$176 42
Three month's salary to ass't collector of Jersey	$250 00	
surveyor of Albany	75 00	
		325 00
Commission on $648,093 15 at 1-6 of 1 per cent		1,080 15
And that the balance due the United States on the 1st of January, 1840, consisted of the following particulars, viz:		
In uncollected bonds not due	3,498,075 43	
Bonds in suit	2,481,545 54	
Deposite bonds	17,110 31	
	5,996,722 28	
Deduct, cash advanced	149,135 82	
		5,847,586 46
		$6,501,619 26

As will appear from the statement and accounts herewith transmitted for the decison of the Comptroller of the Treasury thereon.

J. MILLER, *First Auditor.*

To JAMES N. BARKER, ESQ., *Comptroller of the Treasury.*

TREASURY DEPARTMENT, COMPTROLLER'S OFFICE, *January* 29*th*, 1840.

Admitted and certified,

J. N. BARKER, *Comptroller.*

To T. L. SMITH, ESQ., *Register.*

The balance due the United States, per his account, ending December 31, 1839, is		$6,316,081 71
Add commissions overcharged in present account	$88 94	
Amount debited in abstract of disbursements in relation to appraisements paid special appraisers suspended for authority	195 00	
Amount debited in abstract of contingent expenses, paid markers, in performance of their official duties, disallowed	699 56	
Amount of excess of deposites for unascertained duties arising in the month of December, 1839, debited in this statement, and not credited by him	5,986 48	
Amount treasury notes debited in present account suspended, not covered by warrant, (the commission on which is, however, allowed)	6,684 19	
Amount debited for payment of clerks in collector's office, suspended, no vouchers accompanying account of customs, and the returns not conformable to Comptroller's circular of March 16, 1839	46,294 75	
		59,648 92
		6,375,730 63
Deduct amount erroneously brought forward as the cash balance from 1st series, 4th qr., 1839		528,144 17
		$5,847,586 46

TREASURY DEPARTMENT, FIRST AUDITOR'S OFFICE, *June* 23*d*, 1840.

Examined and stated by

SAMUEL PETTIGREW.

THOMAS FERAN, *Comptroller's Office, July* 29*th*, 1840.

Then followed in said last mentioned transcript the following accounts, viz:

Account No. 2159, dated August 27th, 1840, containing the accounts of said Jesse Hoyt, as collector, (*under his bond dated Nov. 30th, 1838, and additional bond of Dec. 14th, 1839,*) from the 1st day of January, 1840, to the 31st day of March, 1840, commencing with the balance of $5,847,586 46, found by account No. 1937, and ending with a balance of $5,232,637 16.

Account No. 2439, dated January 7th, 1841, containing the accounts of said Jesse Hoyt, as collector, (*under his bond dated 30th Nov., 1838, and additional bond of Dec. 14th, 1839,*) from the 1st day of April, 1840, to the 30th day of June, 1840, commencing with the balance of $5,232,637 16, found by account No. 2159, and ending with a balance of $4,591,063 33.

Account No. 2509, dated February 15th, 1841, containing the accounts of said Jesse Hoyt, as collector, (*under bond dated 30th Nov., 1838, and additional bond of Dec. 14th, 1839,*) from the 1st day of July, 1840, to the 30th day of September, 1840, commencing with the balance of $4,591,063 33, found by account No. 2439, and ending with a balance of $4,811,733 70.

Account No. 2675, dated April 15th, 1841, containing the accounts of said Jesse Hoyt, as collector, (*under bond dated 30th Nov., 1838, and additional bond of 14th Dec., 1839,*) from the 1st day of October, 1840, to the 31st day of December, 1840, commencing with the balance of $4,811,738 70, found by account No. 2509, and ending with the balance of $4,981,055 40.

The foregoing accounts Nos. 2159, 2439, 2509, and 2675, were adjusted and authenticated in the same manner as account No. 1937, and are omitted for the sake of brevity, with leave to either party to produce and refer to the same, and with the express understanding that neither party shall be prejudiced by the omission to insert the same in this bill of exceptions.

3d. Treasury transcript, dated September 30th, 1841, as follows:

TREASURY DEPARTMENT,
Register's office, September 30th, 1841.

Pursuant to the act of Congress of March 3d, 1797, entitled "an act to provide more effectually for the settlement of accounts between the United States and receivers of public money," I, Thomas L. Smith, Register of the Treasury Department, do hereby certify, that the annexed is a true transcript from the books and proceedings of the Treasury.

T. L. SMITH, *Register*.

Be it remembered that Thomas L. Smith, esquire, who certified the foregoing transcript, is now, and was at the time of doing so, Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof I, Walter Forward, Secretary of the Treasury of the United States, have hereunto subscribed my name and [L. S.] caused to be affixed the seal of this Department, at the city of Washington, this thirtieth day of September, in the year of our Lord 1841.

W. FORWARD, *Secretary of the Treasury.*

No 2924. TREASURY DEPARTMENT, *First Auditor's office, August 16th*, 1841.

I have examined and adjusted the accounts of Jesse Hoyt, late Collector of the Customs for the district of New York, in the State of New York, (*under his bond of 30th November*, 1838, *and additional bond of 14th December*, 1839,) commencing on the 1st day of January, and ending on the 2d day of March, 1841, and find that he is chargeable with the following sums, viz:

To balance of his account ending Dec. 31st, 1840, per report No. 2675		$4,981,055 40
Duties on merchandise, per abstracts to 2d March, 1841	$1,921,911 97	
Ditto on unclaimed merchandise sold	4,758 81	
Ditto per cash book, not included in abstracts of duties—entries missing	63,039 72	
		1,989,710 50
Tonnage		920 71
Light money		173 87
Amount of sales of goods saved from the fire at public store in Front street		19,929 17
Nett proceeds of sales of unclaimed merchandise		4,969 19
Marine hospital money collected	2,088 50	
Deduct commission a 1-6 of 1 per cent	3 48	
		2,085 02
Interest received on bonds	1,014 99	
Ditto on woollens	1,388 55	
		2,403 54
United States moiety of fines, penalties, and forfeitures		348 58
Amount of excess of deposites for unascertained duties settled, accruing from 1st January to 2d March, 1841	6,192 57	
Amount of excess for unsettled deposites	10,747 50	
		16,940 50
Cash received from Ely Moore, surveyor of New York, being the balance of his account of emoluments per report No. 2036, and for which said Moore is to be credited		14 72
		$7,018,550 77

I also find that he is entitled to the following credits, viz:

By payments to inspectors, weighers, &c., to March 2d, 1841, including $1,308 33 to N. Seaman and J. W. Oakley, suspended in 4th quarter, 1840, now admitted per vouchers, etc		$52,530 71
Contingent expenses, including $28 25, suspended in in 4th quarter, 1840, now admitted, per vouchers, etc		2,536 23
Debentures paid		74,563 48

By drawbacks on domestic distilled spirits		$2,817 20
Ditto on refined sugar		96,276 60
Bounty paid on pickled fish		192 60
Store account		4,230 75
Disbursements for revenue cutters		2,549 23
Ditto for revenue boats		2,006 97
Ditto in relation to appraisements		17,074 18
Am't of bonds for duties on railroad iron, cancelled		77,182 02
Ditto ditto soda ash, "		3,496 50
Bonds in suit cancelled by warrant from the Secretary of the Treasury		88,261 54
Costs of suits		5,207 26
Compensation to extra clerks in naval office		200 00
Cash paid to the following Collectors of the Customs, per order of the Comptroller, for which they either have been or will be debited, and held accountable, viz.:		
D. N. Barney, Sacket's Harbor, per report No. 2671	820 00	
Jer. Carrier, Cape Vincent, " 2461	900 00	
George H. McWhorter, Oswego, " 2587	1,400 00	
Seymour Scovell, Niagara, " 2726	1,200 00	
Silvester Brown, Ocracoke, " 2532	221 10	
Ditto ditto, " 2790	210 00	
William F. Haile, Champlain, " 2494	320 00	
Smith Stilwell, Oswegatchie " 2679	1,268 44	
J. W. Clinton, Buffalo, " 2856	2,500 00	
D. K. Schenck, Perth Amboy, " 2756	500 00	
J. P. Osborn, Sag Harbor, " 2783	320 00	
Conway Whittle, Norfolk, " 2804	3,000 00	
Charles F. Lester, New London, " 2825	54 20	
Elias H. Haines, Sandusky, " 2870	751 00	
James H. Gibble, Beaufort, " 2875	180 00	
Wm. Littlefield, Newport, " 2805	4,000 00	
Silvester Brown, Ocracoke, per order Nov. 24, 1840	301 28	
Chas. F. Lester, New London, " Jan. 23, 1841	700 00	
" " " Feb. 23, 1841	2,565 00	
Wm. F. Haile, Champlain, " Nov. 12, 1840	47 34	
D. C. Judson, Oswegatchie, " Jan. 21, 1841	1,000 00	
		22,258 36
By amount of the following warrants in favor of the Treasurer, viz.:		
No. 898, (T. N.) dated 20th Feb., 1841	2,522 84	
899, (T. N.) " 22d " "	320 96	
905, (T. N.) " 9th March, "	169,179 37	
906, (Fire Com'rs) dated 13th March, 1841	722 32	
934, (M. H.) " 31st "	4,172 38	
974, (L. H.) " 31st "	15,364 36	
1007, (Dep.) " 31st "	647,500 00	
1026, (Fire Com'rs) " 10th April, 1841	1,070 63	
1038, (T. N.) " 21st "	1,232 98	
1043, (T. N.) " 27th "	458,082 17	
1062, (L. H.) " 20th May, 1841	4,966 05	
(20,) (Ex. Dep.) " 29th July, 1841	4,324 81	
(25,) (Fire Com'rs) " 30th "	332 00	
(26,) (Emol. of Surv'rs) dated 30th July, 1841	4,215 97	
(31,) (Marker's exp's) " 31st "	444 59	
(37,) 6th August, 1841	9,928 82 6,685 92 60,937 50 10,314 39 21,316 31	
(46,) (Emols.) 1841	9,752 57	
		1,433,386 94

By discounts allowed for prompt payment of duties		$761 23
Additional clerk hire paid Ely Moore, surveyor, being the amount of an increase of clerk hire in his office in 1840, without the sanction of the Secretary of the Treasury, with which said Moore is to be debited		225 00
Duties remitted in pursuance of an act to remit the duties on certain goods destroyed by fire at the late conflagration in the city of New York		12,644 22
Commission on $1,587,671 24 *a* 1-6 of 1 per cent.		2,646 12
Amount of uncollected bonds transferred to John I. Morgan, his successor in office, per his receipts dated March 3d, 1841, viz.:		
Book A, list of ordinary bonds not due	2,308,090 96	
" B, list of fire bonds not due	116,021 06	
" C, list of rail road iron bonds extended	220,204 85	
" D, list of bonds in suit	2,254,192 36	
" E, list of general bonds for wines, &c	8,373 52	
		4,906,882 75
And that the balance due the United States on the 3d day of March, 1841, amounted to		209,620 88
		$7,018,550 77

As will appear from the statement and accounts herewith transmitted for the decision of the Comptroller of the Treasury thereon.

J. MILLER, *First Auditor*.

To WALTER FORWARD, Esq., *Comptroller of the Treasury*.

TREASURY DEPARTMENT, *Comptroller's Office*, *August* 30, 1841.

Admitted and certified.

W. FORWARD, *Comptroller*.

To T. L. SMITH, Esq., *Register*, *&c*.

Jesse Hoyt, late Collector of New York, account of differences.

The balance due to the late collector, per his account ending 2d March, 1841, is		$41,016 69
The balance due from him, per the above statement, is		209,620 88
		250,637 57
Which difference arises as follows:		
Amount of commission overcharged in 1839 and 1840, as particularly stated in the adjustment of the quarterly accounts for said years $1,597 18		
Commission overcharged in account now stated 165 09		
	1,762 27	
Overcharge for markers' expenses for 4th quarter 1839, being the amount of fees received by them beyond their maximum compensation, and applicable to expenses, the whole amount of which expenses, $1,795 49, has been placed to his credit, viz.:		
In account under 1st bond, per warrant No. 30, dated 31st July, 1841 $1,350 90		
Account under 2d bond, dated 31st July, 1841, per warrant No. 31 444 59		
1,795 49	254 97	
Paid Lieut. Shaddock, 1st quarter 1840, disallowed, and which the collector has said he would credit United States	6 06	

Amount of the following items debited in 1st quarter, 1840, which should have been debited in account under bond of Nov. 30th, 1838, in which account he has received credit for the same, viz.:		
L't-House disbursements 4th quarter 1839...$10,708 47		
Bonds of J. S. Roulet et al., covered by an order under French convention..... 5,522 27		
		$16,230 74
Amount debited 2d quarter, 1840, for expenses of weighers in 1838, belonging to accounts under bond dated November 30th, 1838, and for which he has received credit per report in same, Nos. 1938 and 2106.....		16,421 63
Amount debited in contingent account 3d quarter 1840, expenses paid George A. Wasson, of himself and others, attending suits suspended, not only for want of authority, but until the issue of the suits be known, if condemnation take place, the costs should be deducted from the proceeds of merchandise.....		1,516 33
Amount of same, 4th quarter 1840, suspended likewise..		251 00
Amount of expenses paid measurers and guagers in 1840, being so much beyond the fees earned, and which cannot be allowed, as the said officers are not at all affected by the act of the 14th July, 1832, and therefore entitled to nothing additional beyond their accruing fees —measurers, $4,278 85—guagers, $5,264 58.....		9,543 43
Amount of costs paid B. F. Butler, Dist. Att'y, debited in account of 2d quar. 1840, still suspended.$4,054 98		
Counsel fees paid ditto, same quarter, without authority..... 875 00		
Ditto 3d quarter, ditto..... 300 00		
		5,229 98
Costs in case of David Hadden and others, charged in bill of August, 3d quarter 1840, suspended for explanation.....		213 03
Counsel fees paid B. F. Butler, Dist. Att'y, in four cases vs. Hoyt, suspended for explanation.....		175 00
Amount over debited for bonds in suit, cancelled by warrant from Sec. of Treasury, being the amount of a payment in 4th quarter 1840, credited the bond of Moller & Oppenheim, No. 21554, the whole amount of which bond is returned as cancelled.....		1,203 45
Amount charged 1st quarter 1841, for expenses of Fire Commissioners, which cannot be allowed for want of appropriation to cover the same; moreover, it is questionable whether the charges for additional clerk hire are admissible under the act of July 7th, 1838, sec. 7..		180 50
Error in transferring amount of contingent abstract to account current, amount per abstract $4,451 92, transferred $4,534 50, difference.....		82 58
Balance claimed on settlement of emoluments for the year 1838, inadmissible, collector having received for the portion of that year he discharged the duties of the office, at the maximum rate of $4,400 per annum.....		1,063 84
Amount charged by him for fees which he claims to be entitled to for the years 1838, 1839, 1840, and 1841, on the ground that fees constitute no part of his emoluments, and for which, therefore, he is not accountable, a claim wholly inconsistent with the act of 7th May, 1822, and previous acts—inconsistent, also, with the universal practice in regard to this matter at the treasury, all of which require that he shall account for all fees, commissions, &c., of whatsoever nature received by him, in virtue of his office, beyond the nett sum of		

$4,400 per annum, and which nett compensation has been allowed to him for the whole of his term of office, commencing with the 29th March, 1838, and ending 2d March, 1841, viz.:			
Balance claimed for fees in 1838.....	$10,069 83		
" " 1839.....	15,374 66		
" " 1840.....	9,581 64		
" " 1st q'r 1841.....	1,186 58		
		36,212 71	
Amount over debited by him, light-house disbursements, 1st quarter 1841, being commission improperly debited by him in light-house account, on appraised value of the cutter Rush, transferred from revenue to light-house service, and which involved no expenditure of money whatever—a charge which cannot be admitted.....		70 48	
Amount debited by him as "commissioner for accepting and paying drafts of Treasurer of United States on me, in all amounting to the sum of $20,158,000 at 1 per cent," a charge which can have no foundation in either law or usage, and which, if it were a proper one, could avail him nothing, inasmuch as the whole amount debited would have to be accounted for by him as surplus emoluments having received all the compensation to which he is by law entitled for his whole term of office.		201,580 00	
Amount of warrant No. 762, dated 16th December, 1840, for deposites made by him with the Receiver General, which was transferred to his credit in account under official bond dated November 30th, 1838, as noted in last statement.....		532,176 83	$824,174 83
From which deduct the following, viz:			
Amount erroneously brought forward as the cash balance from 4th qr. 1839, 1st series, under bond of Nov. 30th, 1838, to 4th qr. 1839, 2d series.....		528,144 17	
Amount of the following sums, credited 1st qr. 1840, to do away former differences, should have been credited under bond of Nov. 30th, 1838, viz:			
Amount of costs of suits, ch'gd 3d qr. 1838	$154 25		
Error in T. notes, former quarter.....	64		
Charged in contingent account, 3d qr. 1839, paid E. K. Reill, &c.....	16 00		
Error in acc't of appraisements, 3d qr. 1839	3 17		
Commission on $174 06, the total of the last four items.....	29		
Excess of deposites for unascertained duties in 2d qr. 1839..... $7,303 35			
Ditto 3d qr. 1839..... 21,116 04			
Ditto 4th qr. 1830..... 13,289 55			
	41,708 94		
		41,883 29	
Amonnt of interest on bonds of J. S. Roulet and others, paid out of awards under French convention, credited in 1st qr. 1840, should have been credited under bond of November 30th, 1838.....		3,128 54	
Amount of counsel fees paid B. F. Butler 3d qr. 1839, erroneously credited 2d qr. 1840, should have been under bond of November 30th, 1838.....		25 00	
Amount improperly credited 2d quarter 1840, paid Lieut. Polk for copying report on light-houses, charged 4th qr. 1839, under 1st bond, should also be credited in account under same.....		4 00	
Amount short charged for "payments to collectors' clerks in 1840." being amount of commission over credited by him in emolument account of 1840.....		181 70	

Amount of difference in account of excess of deposites, being the difference between $1,868 06, credited by him for Treasury drafts 1st qr. 1841, and balance due from him on account of said deposites, $1,867 76....	$0 30	
Amount short debited by him for payments to collector's clerks in 1st qr. 1841, arising in part from his having over credited commission in his account of emoluments.....	170 26	$573,537 26
		$250,637 57

NOTE.—Commission having been allowed in statement of his accounts, 4th quarter 1840, on Treasury notes covered by warrants Nos. 905, 899, and 898, amounting to $172,023.17, which warrants are placed to his credit in this statement, said sum has consequently been deducted from his payments before calculating commission in present account.

In calculating the commission to be credited in this account, $9,752.57, being the amount of warrant No. 46, for the emoluments of 1841, was inadvertently omitted, but the commission arising thereon having been included in the adjustment of the emolument account, it is considered unnecessary to alter this statement.

The collector should be requested to furnish an account exhibiting the aggregate "amount of goods saved at the fire at the public store in Front street," with the abstract of the expenses attending the sale of said goods.

The following bonds, taken under the first section of the act for the relief of the sufferers by fire, approved 19th March, 1836, do not appear, from collector's return of bonds, to have been paid or put in suit, and are not contained in the abstract B.

Fire bonds transferred to his successor in office, viz:

Alfred Waller, No. 2851, due 21st March, 1839	$45 00	
Do. 2852, due 21st March, 1840	45 00	
Do. 2853, due 21st March, 1841	46 00	
		$136 00
Edwin Lord & Co., due 8th April, 1841.....	239 00	
Do. due 12th April, 1841.....	1,482 00	
Do. due 9th May, 1839.....	72 80	
Do. due 9th May, 1841.....	73 00	
Do. due 16th July, 1839.....	998 00	
		2,864 80
James Lee, No. 3312, due 7th February, 1841	.....	238 00
		$3,238 80

NOTE.—The following other bonds put in suit do not appear to have been returned as paid, nor are they in the abstract D. Bonds in suit, transferred to his successor:

Herman Bruen, No. 85,509, dated October 4th, 1827	$847 20	
Th. G. M'Culloch, No. 22,415, dated November 10th, 1836	862 50	
Do. 22,446, dated November 10th, 1836	862 00	
Do. 22,447, dated November 11th, 1836	785 24	
Do. 22,448, dated November 11th, 1836	785 00	
		$4,141 94

The following bonds for railroad iron, contained in the list of said bonds transferred to John I. Morgan, his successor in office, do not appear in the account of bonds taken 4th quarter, 1839.

Thos. B. Wales, No. 569, dated December 23d, 1839, due March 23d, 1840	$3,960 03	
Thos. B. Wales, No. 570, same date, due June 23d, 1840	3,960 00	
Norwich and Worcester Railroad Company, No. 98, dated December 11th, 1839, due June 11th, 1840	318 00	
		$8,238 03

Collector will please explain.

TREASURY DEPARTMENT,
First Auditor's Office, August 16th, 1841.
W. H. MILLER.

Examined and stated by
THOMAS FERAN,
Comptroller's Office, August 30th, 1841.

4th. Treasury transcript, dated December 28th, 1842, as follows:

TREASURY DEPARTMENT,
Register's Office, December 28, 1842.

Pursuant to the act of Congress of March 3, 1797, entitled "An act to provide more effectually for the settlement of accounts between the United States and receivers of public money," I, Thomas L. Smith, Register of the Treasury Department, do hereby certify, that the annexed is a true transcript from the books and proceedings of the Treasury.

T. L. SMITH, *Register*.

Be it remembered, that Thomas L. Smith, esq., who certified the foregoing transcript, is now, and was at the time of doing so, Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof I, Walter Forward, Secretary of the Treasury of the United States, have hereunto subscribed my name and caused to be affixed the seal of this Department, at the city of Washington, this twenty-eighth day of December, in the year of our Lord 1842.

[L. S.]

W. FORWARD,
Secretary of the Treasury.

No. 3715.

TREASURY DEPARTMENT,
First Auditor's Office, August 11th, 1842.

I have examined and adjusted the accounts of Jesse Hoyt, late collector of the customs for the district of New York, in the State of New York, (*under his bond dated November 30th*, 1838, *and additional bond dated December 14th*, 1839,) and find that he is chargeable with the following sums, viz:

4440.

To balance of his account ending March 2d, 1842, per report No. 2924	.....	$209,620 88
Amounts of the following sums received by him for duty bonds in cases where goods had been seized for undervaluation and bonded by stipulation not yet accounted for by him, now debited per letter of the District Attorney of New York, dated July 26th, 1842, of the Solicitor of the Treasury, dated August 9th, 1842, and statement of the collector of New York, herewith, viz:		
John Taylor, jr., ship Independence, paid 11th July, 1839	$5,346 81	
John Platt, ship Independence	2,903 21	
Smith, Thurgar & Co., Josephine, paid 11th November, 1839	750 78	
Smith, Thurgar & Co., Sarah Sheafe	952 54	
P Solomon	151 24	
Wm. Bottomley, Roscius, paid 15th July, 1839	2,984 39	
Oakley & Robinson, Sheffield, paid August, 1839	626 48	
Seigert & Struller	319 84	14,035 29
		$223,656 17

I also find that he is entitled to the following credits, viz:

By amounts of the following warrants in favor of the Treasurer, viz:		
No. 1467, (deposite,) dated 31st December, 1841	$7,442 72	
1598, " " 31st March, 1842	62 38	
1807, " " 30th June, 1842	103 00	
		$7,608 10
And that the balance due the United States amounts in in cash on hand to	.....	216,048 07
		$223,656 17

As will appear from the statements and vouchers herewith transmitted for the decision of the Comptroller of the Treasury thereon.

Signed, TULLY R. WISE, *First Auditor*.

To J. W. M'Culloh, Esq.,
Comptroller of the Treasury.

Treasury Department,
Comptroller's Office, 28*th December*, 1842.

Admitted and certified. J. W. M'CULLOH, *Comptroller*.

To T. L. Smith, Esq., *Register of the Treasury.*

Thereupon the said counsel for the plaintiffs rested the case on the part of said plaintiffs, and the counsel for the defendant objected that the said plaintiffs had not shown enough to entitle them to rest the case without producing other evidence in support of said transcripts—because

1. The law relating to Treasury transcripts, which, under some circumstances, give them the effect of evidence, does not apply to accounts of the description contained in the transcripts offered.

2. That in order to constitute the transcripts legal evidence, they must specify the particular items which are made the ground of claim, and not aggregated items; a balance which, in the present case, makes up the principal part of the claim contained in the transcripts offered.

3. That the statute does not apply to collections made on account of the Government, but to money advanced by it to public agents.

4. When the ground of claim on the part of the Government, arising not out of payments or advances by it, but out of accounts rendered by a public agent of money collected for the Government, the accounts themselves must be introduced as the highest evidence.

The court decided that the transcripts were in conformity to the statute, and were legal evidence.

The counsel for defendant excepted to that decision.

The counsel of the defendant here called upon the counsel of the plaintiffs for the original letters from the defendant, to the First Auditor and Comptroller of the Treasury, under date of the 30th June, 1841, which accompanied the defendant's last quarterly account, and the same not being produced the defendant, among other matters to maintain the issue on his part, introduced and read in evidence copies of said letters, in the words and figures following:

CUSTOM HOUSE, NEW YORK, *June* 30, 1841.

SIR: Herewith you will receive, in thirteen packages, the accounts of the customs of this district from the 1st of January to the 2d of March, in the first quarter of 1841, as per account current and memorandum of papers enclosed, said period being the termination of my accounts as collector of the district of New York. The account current is prepared by the auditor of the custom-house, with the exception of the item of commission for accepting and paying Treasury drafts, which I have directed to be inserted; this account as well as other accounts heretofore transmitted to the Department, has been prepared in the auditor's office, none of which have undergone my personal examination, they having been signed by me when presented.

This account, or those which have preceded it, contains some radical error or errors to a large amount. Where the errors are to be found, or the best probable mode of undertaking to detect them, I am unable at this moment to determine, but request that a thorough examination may be made at the Department, with the view of testing the accuracy of present and past accounts, and I shall direct my efforts to discover them here.

At the time of the passage of the law requiring all money received on deposite for unascertained duties to be immediately paid into the Treasury, I received a circular from the Department, containing instructions relative to the accounts to be kept under that law. The circular bears date the 13th March, 1839, and alluding to an account for excesses of deposites, contains this clause:

"This account has no connection, immediate or remote, with your account of the customs."

The amounts I have paid to the merchants for such excesses, and have also credited in the accounts of the customs to the United States, is over $109,000. I early objected to this credit, as will be seen by my letter to the Comptroller, under date of the 14th of February, 1840,

and my mind has never been satisfied with the reasons assigned by the Comptroller in his letter of April 11, 1840, for the change in the direction originally given by the circular referred to. I most earnestly request that the principle involved in this question may be carefully examined.

The balance of the money which was paid to me under protest amounts to $189,871 17. The suits brought for the recovery of the same are against me as an individual, for which I am liable, upon the recovery of judgments under execution, and am compelled to rely upon and wait for the justice of the Government for protection in indemnification.

Very respectfully, your obedient servant,
J. HOYT, *late Collector*.

To JESSE MILLER, ESQ., *1st Auditor, &c.*

CUSTOM HOUSE, NEW YORK, *June* 30, 1841.

SIR: It was not until yesterday at near 3 o'clock, that I procured the signature of Mr. Morgan, my successor in office, to the abstracts of bonds delivered by me to him, without which my final accounts could not be forwarded. I send them to-day to the First Auditor of the Treasury, with a letter, a copy of which I now enclose to you as the head of the accounting department of the Government. I have to request that you will be so good as to acknowledge the receipt of this letter with its enclosure. I hope by the time the First Auditor shall have examined the accounts now sent him, that you will have had leisure to look at my account of fines, penalties, and forfeitures, about which I wrote you some months since.

With great respect, your obedient servant,
J. HOYT, *late Collector*.

To WALTER FORWARD, ESQ., *Comptroller*.

The counsel of the defendant here called upon the counsel of the plaintiffs, in pursuance of notice for that purpose given, for the respective quarterly accounts of defendant, rendered to the Treasury Department for his whole term of office, and the same were produced and read in evidence by the defendant.

(The accounts introduced are the following, placed in the following order:

1. The third quarter account of 1838.
2. The first quarter do. of 1839.
3. The second quarter do. of 1839.
4. The first quarter do. of 1840, including expenditures for light-house on Robbin's Reef.
5. Statement of fees of office and disbursement, for the year 1839.
6. Schedule of weekly balances to credit of Treasurer.
7. Schedule of Treasury drafts taken up by defendant.
8. Weekly return of collector, November 24, 1838.
9. J. Hoyt's account with Treasurer, November 24, 1838.
10. Weekly return, 16 June, 1838, and the following accounts:)

DR. *The United States in account current with Jesse Hoyt, Collector of the customs at the port of New York, for the quarter ending*

To amount of debentures paid on goods exported, per abstract....	1	$152,499 88
discounts allowed, per abstract.....	2	1,350 01
drawback paid on domestic refined sugar, per abstract	3	4,547 20
drawback paid on domestic distilled spirits, per abstract.....	4	614 08
bounty paid on pickled fish, per abstract.....	5	236 40
payments to inspectors, weighers, guagers, and measurers, per abstract.....	6	84,191 82
disbursements to revenue cutters, per abstract.....	7	6,011 65
disbursements for revenue boats, per abstract.....	8	3,002 55
disbursements in relation to appraisements, per abstract.....	9	19,414 78
disbursements on account of contingent expenses....	10	4,142 37
disbursements for custom-house, per abstract.....	11	4,069 05
payments to collectors of other districts, per abstract.	12	20,903 27
payments to assistant collectors of Jersey and officers of Albany.....	13	632 01
duties refunded on merchandise in general.....	14	14,108 19
payments to Frederic J. Betts, clerk of court, per voucher	15	160 92
payments to W. C. H. Waddell, U. S. marshal.....	16	72 85
payments to Wm. M. Price, U. S. district attorney..	17	2,812 66
bonds cancelled for duties on railroad iron, per statement.....	18	12,657 88
treasury drafts paid and returned to treasurer.....	....	3,036,062 08
treasury notes taken in payment of duties, old issue.	....	178,826 23
treasury notes taken in payment of duties, new issue	....	9,350 04
expenditures for marine hospital, in 2d quarter 1838, as per account adjusted at the treasury.....	....	4,024 27
commission on $3,546,901, a 1-6 per cent.....	....	5,911 50
over-credited in account of bonds in suit transferred by late collector, per account current of last three days of quarter ending 31st March, 1838.....	....	500 00
To balance due United States.....	....	7,497,681 42
		$11,063,783 11

To amount of bonds outstanding, per abstract of bonds taken, folio	150	6,501,055 51
general bonds outstanding, per do	138	25,775 66
treasurer's accounts not yet covered by draft.....	....	695,777 99
cash retained for payments, September 30, 1838.....	....	89,560 56
amount of deposites for duties not yet ascertained.....	....	99,249 00
unsettled accounts.....	....	86,262 70
		$7,497,681 42

lector for the Customs for the district of New York, for the 30 *Sept.*, 1838. Cr.

By balance due United States June 30, 1838	....	$7,824,612 22
amount of duties on goods imported in vessels U. S., per abstract	A	2,936,636 58
on goods imported in foreign and equalized vessels, per abstract	B	241,038 57
on goods imported in foreign unequalized vessels, per abstract	C	9,292 63
on the tonnage of vessels, per abstract	D	957 94
light money received, per abstract	D	533 88
interest on revenue bonds, per abstract	E	36,180 87
interest on woollens, per abstract	F	2,085 19
hospital money received, per abstract	G	3,242 49
extra tonnage duties on certain Spanish vessels	H	304 03
received from late collector, for refunding duties under protest	....	8,229 94
from secret hands for duties	....	354 01
of costs of suits refunded by U. S. marshal	....	314 76
		$11,063,783 11
By balance brought down	....	7,497,681 42
		$7,497,681 42

DR. *The United States in account current with Jesse Hoyt, Collector of the customs at the port of New York, for the quarter ending on*

To amount of debentures paid on goods exported, per abstract.....	1	$190,303 28
discounts allowed, per abstract.....	2	1,942 03
drawback paid on domestic refined sugar, per abstract	3	143 45
drawback paid on domestic distilled spirits, per abstract	4	636 60
bounty paid on pickled fish, per abstract.....	5	162 00
payments to inspectors, weighers, guagers, and measurers, per abstract.....	6	80,389 00
payments to guagers, (supplementary,) per abstract..	7	821 65
disbursements for revenue cutters, per abstract.....	8	13,169 66
disbursements for revenue boats, per abstract.....	9	3,003 98
disbursements in relation to appraisements, per abstract	10	23,875 42
disbursements on account of contingent expenses, per abstract.....	11	4,697 45
disbursements for custom-house, per abstract.....	12	5,266 40
payment to collectors of other districts, per abstract..	13	25,500 00
payments to assistant collector of Jersey and officers of Albany, per abstract.....	14	598 75
duties refunded on merchandise in general, per abstract.....	15	2,777 79
duties refunded on R. R. iron, per voucher.....	16	2,476 16
payments to Benj. F. Butler, district attorney.....	17	2,041 79
payments to W. C. H. Waddell, marshal, per abstract	18	442 12
payments to Fred. J. Betts, clerk of court, per abstract	19	86 68
payments to S. N. Benton, for special purposes, per abstract.....	20	249 08
costs of suit paid J. W. Gerard, att'y, per abstract...	21	41 92
Chas. Edwards, att'y, per abstract	22	44 20
paid George McIntosh, interest on French indemnities, per voucher.....	23	642 03
of money deposited in bank to special credit of treasurer, per voucher.....	24	410,000 00
of bonds cancelled for railroad iron, per voucher.....	25	24,482 21
received by Wm. M. Price, late district attorney, on account of certain bonds, per voucher.....	26	1,150 47
of treasury drafts paid and returned to treasurer.....	....	2,154,773 87
notes taken in payment for duties, (old issue) returned to treasury.....	....	39,112 48
notes taken in payment for duties, (new issue)	....	36,720 39
of expenditures for marine hospital in the quarter ending 31st December, 1838, as per account. Adjusted at the treasury.....	....	4,105 58
commissions on $3,025,515 63, at 1-6 per cent.....	....	5,042 52
balance due the United States.....	....	7,806,826 39
		$10,841,525 35

To amount of bonds outstanding, per abstract of bonds taken, folio	225	$7,030,696 78
general bonds outstanding, per ditto.....	211	26,737 62
treasurer's account not yet covered by draft.....	....	378,828 59
deposites for duties not yet ascertained.....	....	21,374 00
suspense accounts.....	....	349,189 40
		$7,806,826 39

lector for the Customs for the District of New York, for the the 31st March, 1839. CR.

By balance due United States, December 31st, 1838		$6,516,173 12
amount of duties on goods imported in vessels of U. S., per voucher	A	4,015,771 83
on goods imported in foreign vessels, equalized, per voucher	B	289,654 91
on goods imported in foreign unequalized vessels, per voucher	C	4,059 44
tonnage of vessels ...do...	D	1,238 82
light money ...do...	D	860 37
hospital money ...do...	E	2,939 63
interest on revenue bonds ...do...	F	3,868 01
on woollens ...do...	G	2 029 33
forfeitures ...do...	H	1,308 47
nett proceeds of sale of unclaimed goods ...do...	I	1,523 88
duties on ...ditto... ...do...	J	1,388 25
extra tonnage duty on certain Sp. vessels ...do...	K	485 08
costs of suits collected		224 21
		$10,841,525 35
By balance brought down		$7,806,826 39
		$7,806,826 39

DR. *The United States in account current with Jesse Hoyt, under District of New York, for the*

To amount of debentures paid on goods exported, per abstract...	1	$136,462 71
discounts allowed.....do.....	2	1,936 97
drawbacks paid on domestic refined sugar...do.....	3	11,112 45
paid on domestic distilled spirits..do.....	4	648 68
bounty paid on pickled fish.....do.....	5	142 60
payments to inspectors, weighers, gaugers, and measurers, per abstract	6	100,645 77
disbursements for revenue cutters.....do.....	7	4,946 15
for revenue boats.....do.....	8	3,069 68
in relation to appraisements....do.....	9	25,222 89
on ac't of contingent expenses..do.....	10	5,708 08
for custom house.....do.....	11	4,224 53
payments to collectors of other districts.....do.....	12	29,320 95
to assistant collector of Jersey and officers of Albany, per abstract	13	536 53
duties refunded on merchandise in general.....do.....	14	281 40
refunded on railroad iron, per voucher	15	99 56
payments to Benj. F. Butler, district at'y.....do.....	16	5,880 06
to Fred. J. Betts, clerk of court.....do.....	17	99 62
bonds for railroad iron, cancelled, per statement	18	27,396 62
payments on sundry bonds.....do.....	19	6,909 08
duties over-credited in former quarters.....do.....	20	710 53
costs paid in sundry suits, per abstract	21	417 96
allowance made to naval officer and surveyor.....do.....	22	1,129 15
compensation to extra clerks in naval office.....do.....	23	360 00
amount of treasury drafts paid and returned to treasurer, per abstract.....	....	3,085,781 34
notes in payment of duties, old issue, returned to the treasurer.....	....	31,528 43
notes taken in payment of duties, new issue, returned to the treasurer	....	64,652 00
expenditures for light-houses in third quarter, 1838.....	....	8,421 05
for light-houses in fourth quarter, 1838, per account adjusted at the treasury.....	....	13,338 71
for light-houses in first quarter, 1839, per account adjusted at the treasury.....	....	8,606 52
for marine hospital, first quarter, 1839, per account adjusted at the treasury.....	....	4,023 99
commission on $3,582,522 28, at 1-6 per cent.....	....	5,970 87
balance due the United States.....	....	7,962,887 51
		$11,552,472 39

To amount of bonds outstanding, per abstract of bonds taken folio..	219	7,467,936 71
general bonds outstanding, per.....ditto.....	199	33,332 41
treasurer's account not yet covered by warrant.....	....	332,937 42
unsettled and suspense account.....	....	128,680 97
		$7,962,887 51

Bond dated March 22d, 1838, *Collector of the Customs for the quarter ending 30th June*, 1839. CR.

By balance due United States, March 31st, 1839		$7,806,826 39
amount of duties on goods imported in vessels of United States, per abstract	A	2,919,060 28
on goods imported in foreign equalized vessels, per abstract	B	762,229 71
on goods imported in foreign unequalized vessels, per abstract	C	7,595 45
on the tonnage of vessels, per abstract	D	4,324 68
light money, per abstract	D	1,395 88
hospital money, per abstract	E	4,133 70
interest on revenue bonds, per abstract	F	13,461 22
on woollens, per abstract	G	1,482 93
forfeitures, per abstract	H	27,840 88
interest on protest money in special deposites in bank		3,469 56
costs on suits repaid		550 49
duties from unknown hands		98 66
error in settlement of account of Treasury notes, 2d quarter, 1838		1 80
of account of Treasury notes, 3d quarter, 1838		0 76
		$11,552,472 39
By balance brought down		$7,962,887 51
		$7,962,887 51

DR. *The United States in account with Jesse Hoyt, (under Bond of lector of the Customs for the District of New*

To amount of debentures paid on goods exported, per abstract	1	$187,136 05
discounts allowed, per abstract	2	783 09
drawbacks paid on domestic refined sugar, per abstract	3	93,059 80
paid on domestic refined spirits, per abstract	4	98 60
bounty paid on pickled fish, per abstract	5	219 40
allowance to vessels employed in the cod fisheries, per abstract	6	331 15
payments to inspectors, weighers, gaugers, and measurers, per abstract	7	80,670 38
disbursements for revenue cutters, per abstract	8	10,782 98
for revenue boats, per abstract	9	3,331 65
in relation to appraisements, per abstract	10	21,601 17
in account of contingent expenses per abstract	11	3,938 25
for custom-house, per abstract	12	3,140 10
payments to collectors of other districts, per abstract	13	22,912 45
to officers of Albany and Jersey, per abstract	14	788 75
duties refunded on various merchandise, per abstract	15	644 62
payments to Benj. F. Butler, district att'y, per voucher	16	10,966 34
to Fred. J. Betts, clerk of court, per voucher	17	303 45
bonds for railroad iron, cancelled, per statement	18	59,760 06
cancelled, per warrants of Secretary of Treasury, per statement	19	27,971 19
moneys retained at Washington for bonds in suit, per statement	20	5,522 27
allowances to naval officer and surveyor, per abstract,	21	2,645 54
compensation to extra clerks in naval office, per abstract	22	296 00
expenditures for revenue boats for collectors in Florida, per abstract	23	511 34
payment for pat. bal. for collector in Georgia, per voucher	24	127 50
payment to E. Curtis, att'y, judgt. in court, per voucher	25	379 84
fire certificates taken in payment of duties and transmitted to the Treasury	....	29,613 96
Treasury notes taken in payment for duties, and transmitted to First Auditor	....	45,738 31
Treasury drafts paid and returned to Treasurer of United States	....	2,189,964 00
expenditures for light-houses in 4th quarter, 1839, 1st series, as per account adjusted at the Treasury	....	10,708 47
expenditures for light-houses, in 4th quarter, 1839, 2d series, as per account adjusted at the Treasury	....	2,071 73
expenditures for building light-house on Robbin's Reef, as per account adjusted at the Treasury	....	38,237 37
expenditures for placing buoys in waters of N. Jersey, as per account adjusted at the Treasury	....	771 72
expenditures for marine hospital in 4th quarter, 1839, as per account adjusted at the Treasury	....	4,195 03
commissions on $2,858,058 97, at 1-6 per cent	....	4,763 43
Balance due the United States	....	5,696,516 48
		$8,560,502 47
To amount of bonds outstanding, per abstract of bonds taken, folio	106	$5,180,235 48
general bonds outstanding, per abstract of bonds taken, folio	101	13,970 50
Treasurer's account not yet covered by warrant		391,399 55
unsettled and suspense accounts		110,910 95
		$5,696,516 48

Hoyt vs. *United States.*

30th Nov., 1838, *and additional bond of* 14*th Dec.*, 1839,) *Col-* Cr.
York, for the quarter ending 31*st March*, 1840.

By balance due United States, December 31st, 1839	....	$6,316,081 71
amount of duties on goods imported in vessels of United States, per abstract	A	1,876,009 37
on goods imported in foreign equalized vessels, per abstract	B	286,835 63
on goods imported in foreign unequalized vessels, per abstract	C	1,033 40
on the tonnage of foreign vessels, per abstract	D	1,139 44
light money from foreign vessels, per abstract	D	253 25
hospital money received, per abstract	E	3,411 44
interest on revenue bonds, per abstract	F	3,474 71
on woollens, per abstract	G	10,984 00
forfeitures, per abstract	H	415 43
nett proceeds of sales of unclaimed goods, per abstract	I	1,087 87
duties on unclaimed goods, per abstract	J	683 91
costs of suit received, per abstract	....	476 51
duties from unknown hands, per abstract	....	374 69
costs of suit charged in 3d quarter, 1838, remitted from the Treasury	....	154 25
errors in Treasury notes, former quarters	....	64
charged in contingent account 3d quarter, 1839, paid H. E. Riell & Co	....	16 00
errors in account of appraisements, 3d quarter, 1839	....	3 17
commission on $174 06, the total of the last four items	....	99
excess of deposites for unascert'ed duties, 2d qr. 1839	....	7,303 35
excess of deposites for unascert'ed duties, 3d qr. 1839	....	21,116 04
excess of deposites for unascert'ed duties, 4th qr. 1839 1st series	....	13,289 55
excess of deposites for unascert'ed duties, 4th qr. 1839 2d series	....	5,686 48
excess of deposites for unascert'ed duties, 1st qr. 1840	....	10,671 34
		$8,560,502 47
By balance due the United States brought down	....	$5,696,516 48
		$5,696,516 48

Account of expenditures for building a light-house on Robbin's Reef, in the harbor of New York, authorized by an act of Congress, approved March 3d, 1837.

When paid.	To whom paid.	For what object.		Sums paid.
1839.				
Feb'ry 23	Daniel Hazelton and Cyrus L. Warner.	On account of contract for building light-house on Robbin's Reef, per voucher	1	$10,000 00
Nov'ber 2	Daniel Hazelton and Cyrus L. Warner.	For balance of contract for building light-house, per voucher	2	24,000 00
Oct'ber 21	E. M. Brown	For bell for light-house, per voucher	3	274 87
Nov'ber 1	James Strang	For superintending the building of the light-house, per voucher	4	816 00
Nov'ber 2	W. & E. De la Montagnie.	For a boat, &c., per voucher	5	70 88
Nov'er 18	James Rogers	For fitting up the lantern of the light-house with lamps, per contract and voucher	6	680 00
Nov'er 18	James Rogers	For making machinery for holding the lamps of the light-house, per voucher	7	150 00
1840.				
Janu'ry 2	James R. Walter	For lead pump, &c., per voucher	8	23 00
Feb'ry 13	D. Haselton and William Palmer	For building cistern at light-house, per voucher	9	390 00
				$37,304 75
	Commission, at 2½ per cent			932 62
				$38,237 37

DISTRICT OF NEW YORK, *Collector's Office, Feb. 17th,* 1840.

J. HOYT, *Collector.*

General statement of fees for certificates of spirits, received by Jesse Hoyt, collector, and of commission on disbursements, for light-houses, marine hospital, and revenue cutters, in the district of New York, in the year 1839.

In what period.	IN WHICH CAPACITY.				
	In relation to certificates.	Superintendent of light houses.	Agent for marine hospital.	Agent for revenue cutters.	Total.
First quarter, 1839.....	$115 80	$209 91	$39 84	$130 39	$495 94
Second quarter, 1839....	215 08	329 48	39 84	53 57	637 97
Third quarter, 1839.....	136 40	1,635 26	39 83	68 83	1,880 32
Fourth quarter, 1839....	110 76	310 15	41 53	158 25	620 69
	$578 04	$2,484 80	$161 04	$411 04	$3,634 92

General statement of fees and emoluments of Jesse Hoyt, collector, and of disbursements for clerk-hire, stationery, fuel, and other official expenses in the district of New York, in the year 1839.

RECEIVED.				EXPENDED.					
In what period.	Fees.	Commissions	Total.	In what period.	Clerk hire.	Stationery.	Fuel.	Other official expenses.	Total.
1839.				1839.					
First quarter.....	$5,372 96	$5,042 52	$10,415 48	First quarter.....	$18,885 41	$1,759 12	$29 45	$272 11	$20,946 09
Second quarter...	6,495 32	5,970 87	12,466 19	Second quarter...	20,537 34	1,139 02	6 28	299 35	21,981 99
Third quarter....	6,355 05	6,679 36	13,034 41	Third quarter....	21,324 74	2,588 44	256 17	243 25	24,412 60
Fourth quarter...	4,533 15	5,547 77	10,080 92	Fourth quarter...	21,462 77	2,170 88	10 50	541 84	24,185 99
	$22,756 48	$23,240 52	$45,997 00		$82,210 26	$7,657 46	$302 40	$1,356 55	91,526 67
Amount of emoluments arising from fees for certificates of spirits, commissions on disbursements, for light-houses, marine hospital, and revenue cutters—see general statement of the same.....			3,634 92	Collector's maximum compensation allowed by law.....					4,400 00
				Total amount of expenditures.....					95,926 67
				Deduct amount of emoluments.....					49,631 92
			$49,631 92	Balance due the collector, charged to the United States, in account current for fourth quarter, 1839, second series.....					$46,294 75

Schedule of weekly balances to the credit of the Treasurer of the United States, on the books at the custom-house from the time the account was opened, viz., June 18, 1838, *to the closing of said account and depositing balance with receiver general, August* 31, 1840.

Custom House, New York, Sept. 1, 1840.

J. HOYT, *Collector*.

1838, June	23	$691,786	14	1839, March	23	$306,358	92	1839, Dec.	21	$362,917	49
	30	556,840	07		31	378,828	59		31	318 520	50
July	7	449,163	83	April	6	571.717	61	1840, Jan.	4	394,820	17
	14	489,058	83		13	573,432	01		11	478.115	57
	21	424.260	26		20	408.212	78		18	503.367	75
	28	419.535	48		27	482.342	84		25	460.660	51
Aug.	4	562.629	22	May	4	387,346	34	Feb.	1	301,957	65
	11	688,841	38		11	221,090	21		8	230.535	96
	18	645,784	31		18	471.815	42		15	384.905	09
	25	661.278	36		25	503,549	90		22	485 645	65
Sept.	1	604,028	99	June	1	277,009	78		29	405.972	19
	8	549.238	76		8	152,521	28	March	7	447.619	65
	15	552,412	06		15	169,624	23		14	284.385	74
	22	659,072	56		22	339.624	23		21	433.971	70
	29	695,777	99		30	332,937	42		31	391,399	55
Oct.	6	687,167	26	July	6	605,590	17	April	4	295,514	48
	13	682,199	10		13	599,234	95		11	190.90	43
	20	704,872	02		20	561,802	05		18	252,605	51
	27	778,693	15		27	566,084	79		25	308,075	96
Nov.	3	694,570	23	Aug.	3	330,849	96	May	2	99,760	11
	10	534,435	90		10	369,810	16		9	134,827	59
	17	627,199	92		17	565,981	64		16	149,685	27
	24	620.205	96		24	723,744	31		23	138,866	43
Dec.	1	570,774	83		31	431,275	91		30	157,866	43
	8	515,604	70	Sept.	7	556,030	52	June	6	98,375	27
	15	378,078	96		14	505,772	62		13	127,532	98
	22	339,971	86		21	663,069	12		20	142,632	30
	31	94,567	69		30	543,871	94		30	211,259	77
1839, Jan.	5	205,087	96	Oct.	5	652,367	72	July	3	187,060	24
	12	313,100	30		12	586,455	15		11	222.286	72
	19	205.609	47		19	463,724	56		18	271,639	94
	26	467.640	11		26	450,955	38		25	259,558	09
Feb.	2	459.025	15	Nov.	2	268,419	82	Aug.	1	146,035	12
	9	433,828	26		9	301,871	67		8	149,569	36
	16	331,723	08		16	433.594	07		15	132,837	47
	23	432.413	11		23	415.530	79		22	98,850	59
Mar.	2	428,792	28		30	380,083	82		29	92,175	05
	9	527,988	78	Dec.	7	436,836	18		31	90,274	17
	16	453,819	50		14	288,216	71				

Deposited with receiver general to close accounts.

The gross amount of weeks is 116, and the gross amount of all the weekly balances is $47,248,107 71, which makes the average weekly balance to credit of treasurer in hands of Mr. Hoyt, $407,301.

Schedule of Treasury drafts taken up at the custom-house, New York, and returned to Treasurer during the quarter ending September 30th, 1838.

1838.					
July	2	To draft No.	3951 on War warrant	1584	$500 00
	2	ditto	4001 ditto	1620	2,000 00
	2	ditto	4002 ditto	1621	7,000 00
	3	ditto	3862 ditto	1393	150,000 00
	3	ditto	3954 ditto	1560	80,000 00
	5	ditto	1002 on Navy ditto	8269	30,000 00
	5	ditto	3787 on War ditto	1344	6,000 00
	5	ditto	3949 ditto	1580	500 00
	6	ditto	994 on Navy ditto	8260	31,676 24
	9	ditto	2755 on Treas'y ditto	9	13,750 00
	9	ditto	2756 ditto	10	3,437 50
	9	ditto	2757 ditto	11	3,437 50
	9	ditto	2772 ditto	71	1,000 00
	10	ditto	4121 on War ditto	1747	10,000 00
	12	ditto	4147 ditto	1796	2,000 00
	13	ditto	991 on Navy ditto	8260	20,000 00
	13	ditto	2744 on Treas'y ditto	42	575 00
	14	ditto	2639 ditto	8853	4,905 00
	14	ditto	2828 ditto	8117	18,000 00
	14	ditto	3809 on War ditto	1368	30,000 00
	14	ditto	3881 ditto	1502	15,000 00
	14	ditto	3955 ditto	1571	12,000 00
	14	ditto	4117 ditto	1746	1,000 00
	16	ditto	1016 on Navy ditto	8283	52,415 00
	16	ditto	2852 on Treas'y ditto	164	6,717 60
	16	ditto	2856 ditto	170	1,120 00
	16	ditto	2886 ditto	176	10,000 00
	16	ditto	3935 on War ditto	1546	5,000 00
	16	ditto	4246 ditto	1847	1,500 00
	16	ditto	4247 ditto	1849	1,000 00
	17	ditto	2836 on Treas'y ditto	161	4,000 00
	17	ditto	4217 on War ditto	1809	12,000 00
	18	ditto	1018 on Navy ditto	8285	11,304 00
	18	ditto	2883 on Treas'y ditto	177	3,402 00
	18	ditto	2900 ditto	9213	2,208 34
	18	ditto	4216 on War ditto	1807	700 00
	18	ditto	4218 ditto	1810	1,000 00
	19	ditto	4320 ditto	1917	3 000 00
	20	ditto	2912 on Treas'y ditto	9228	2,387 90
	20	ditto	2913 ditto	9228	16 25
	20	ditto	2915 ditto	9226	25,000 00
	20	ditto	2918 ditto	9235	2,560 22
	20	ditto	2920 ditto	9233	48,960 00
	20	ditto	4305 on War ditto	1885	14,700 00
	20	ditto	4312 ditto	1913	1,500 00
	20	ditto	4333 ditto	1918	1,230 00
	20	ditto	4334 ditto	1925	400 00
	20	ditto	4340 ditto	1924	20,921 00
	20	ditto	4341 ditto	1924	79 00
	20	ditto	4359 ditto	1949	5,692 52
	20	ditto	4360 on War warrant	1950	7,847 50
	21	ditto	2800 on Treas'y ditto	93	1,000 00
	21	ditto	4332 on War ditto	1915	13,000 00
	21	ditto	4346 ditto	1919	1,000 00
	21	ditto	4353 ditto	1951	676 06
	21	ditto	4355 ditto	1930	1,461 20
	23	ditto	4365 ditto	1988	1,000 00

1838.					
July	23	To draft No.	3775 on War warrant	1317	$11,502 50
	23	ditto	4309 ditto	1893	17,000 00
	24	ditto	2916 on Treas'y ditto	9230	191 00
	24	ditto	4306 on War ditto	1887	9,060 00
	24	ditto	4367 ditto	1937	437 85
	24	ditto	4387 ditto	1969	500 00
	25	ditto	1027 on Navy ditto	8296	20,000 00
	25	ditto	2798 on Treas'y ditto	93	3,000 00
	25	ditto	2799 ditto	93	2,000 00
	25	ditto	2818 ditto	111	350 00
	25	ditto	2838 ditto	161	3,550 00
	25	ditto	2854 ditto	140	2,100 60
	25	ditto	2921 ditto	9232	2,000 00
	25	ditto	4366 on War ditto	1934	85 17
	26	ditto	2952 on Treas'y ditto	9266	14,841 78
	26	ditto	4371 on War ditto	1989	55,923 79
	27	ditto	1036 on Navy ditto	8302	27,550 00
	27	ditto	1038 ditto	8304	5,664 50
	27	ditto	2835 on Treas'y ditto	161	16,000 00
	27	ditto	4109 on War ditto	1742	8,699 69
	27	ditto	4363 ditto	1945	310 00
	27	ditto	4478 ditto	2082	8,027 69
	27	ditto	4509 ditto	2101	525 00
	28	ditto	2837 on Treas'y ditto	161	2,600 00
	28	ditto	2881 ditto	173	4,003 00
	28	ditto	2890 ditto	9212	3,600 00
	28	ditto	4347 on War ditto	1923	20,000 00
	28	ditto	4480 ditto	2051	8,702 81
	28	ditto	4482 ditto	2050	500 00
	28	ditto	4493 ditto	2036	1,000 00
	28	ditto	4494 ditto	2040	5,000 00
	30	ditto	2953 on Treas'y ditto	9263	1,100 00
	30	ditto	2954 ditto	9264	800 00
	30	ditto	2960 ditto	9274	1,962 40
	30	ditto	2961 ditto	9281	125 00
	30	ditto	2962 ditto	9280	2,245 48
	30	ditto	2963 ditto	9282	1,546 63
	30	ditto	2970 ditto	9283	5,860 53
	30	ditto	2971 ditto	9296	6,085 29
	30	ditto	2986 ditto	9306	1,780 04
	30	ditto	4269 on War ditto	1863	500 00
	30	ditto	4307 ditto	1891	2,000 00
	30	ditto	4510 ditto	2124	5,000 00
	30	ditto	4513 ditto	2057	3,687 04
	30	ditto	4527 ditto	2125	5,000 00
	31	ditto	2958 on Treas'y ditto	9294	142 93
	31	ditto	4495 on War ditto	2041	13,000 00
	31	ditto	2922 on Treas'y ditto	9236	429 43
	31	ditto	2959 ditto	9279	199 36
Aug.	1	ditto	2982 ditto	9307	250 00
	1	ditto	2984 ditto		1,958 73
	1	ditto	4479 on War ditto	2037	453 00
	2	ditto	2983 on Treas'y ditto	9307	150 00
	2	ditto	3007 ditto	9237	1,494 78
	2	ditto	3009 ditto	9332	20,000 00
	2	ditto	3014 ditto	9340	800 00
	3	ditto	1047 on Navy ditto	8314	18,000 00
	3	ditto	2965 on Treas'y ditto	9272	289 28
	3	ditto	3020 ditto	9342	525 08
	3	ditto	3021 ditto	9341	1,624 30
	3	ditto	3008 ditto	9329	651 40
	3	ditto	3010 ditto	9333	1,214 00

1838.					
August 3	To draft No.	3016	on Treas. warrant	9335	$2,756 00
3	ditto	3017	ditto	9336	732 57
3	ditto	4481	on War ditto	2027	2,065 99
3	ditto	4491	ditto	2031	1,137 00
3	ditto	4496	ditto	2043	1,000 00
3	ditto	4609	ditto	2217	400 00
6	ditto	3034	on Treas'y ditto	9363	3,750 00
6	ditto	4646	on War ditto	2216	432 00
7	ditto	1296	on Treas'y ditto	6727	575 00
7	ditto	3028	ditto	9347	1,121 25
7	ditto	4631	on War ditto	2194	3,730 05
7	ditto	4641	ditto	2113	1,678 72
7	ditto	4643	ditto	2168	11,551 88
8	ditto	1050	on Navy ditto	8319	20,000 00
8	ditto	3018	on Treas'y ditto	9337	488 02
8	ditto	3042	ditto	9370	1,260 00
8	ditto	3043	ditto	9369	137 81
8	ditto	4364	on War ditto	1932	100 00
8	ditto	4561	ditto	2144	30,000 00
9	ditto	3047	on Treas'y ditto	9366	1,560 00
9	ditto	3048	ditto	9367	16,000 00
9	ditto	4581	on War ditto	2177	5,000 00
9	ditto	4680	ditto	2278	1,454 04
10	ditto	1028	on Navy ditto	8296	19,728 04
10	ditto	1055	ditto	8326	22,800 00
10	ditto	3027	on Treas'y ditto	9350	1,355 28
10	ditto	4580	on War ditto	2172	10,250 00
10	ditto	4676	ditto	2255	5,000 00
10	ditto	4736	ditto	2252	14,000 00
11	ditto	4785	ditto	2319	1,815 75
13	ditto	1056	on Navy ditto	8332	1,123 79
13	ditto	1061	ditto	8329	59,377 28
13	ditto	3053	on Treas'y ditto	9380	11,580 00
13	ditto	3068	ditto	9397	20,000 00
13	ditto	4492	on War ditto	2033	3,000 00
13	ditto	4505	ditto	2034	7,000 00
13	ditto	4756	ditto	2288	800 00
14	ditto	4630	ditto	2193	1,000 00
14	ditto	4783	ditto	2313	1,500 00
14	ditto	4787	ditto	2306	10,000 00
15	ditto	4645	ditto	2199	5,800 00
16	ditto	1070	on Navy ditto	8333	60,000 00
16	ditto	1072	ditto	8339	14,250 00
16	ditto	4672	on War warrant	2246	2,000 00
17	ditto	992	on Navy ditto	8260	20,000 00
17	ditto	1052	ditto	8325	25,000 00
17	ditto	1053	ditto	8325	25,000 00
17	ditto	1054	ditto	8325	25,000 00
17	ditto	4681	on War ditto	2271	2,000 00
18	ditto	1077	on Navy ditto	8341	7,000 00
18	ditto	4673	on War ditto	2247	6 018 00
18	ditto	4674	ditto	2248	3,608 00
18	ditto	4684	ditto	2269	2,000 00
18	ditto	4859	ditto	2366	30,000 00
20	ditto	4698	ditto	2274	7,000 00
20	ditto	4802	ditto	2312	500 00
20	ditto	4826	ditto	2337	1,000 00
20	ditto	4868	ditto	2376	16,773 75
20	ditto	4869	ditto	2377	8,752 00
20	ditto	2860	on Treas'y ditto	166	2,000 00
21	ditto	4686	on War ditto	2264	3,000 00
22	ditto	1078	on Navy ditto	8353	30,000 00

1838.						
August 22	To draft No.	3741	on War	warrant	1337	$5,000 00
23	ditto	1080	on Navy	ditto	8348	9,604 00
23	ditto	4882	on War	ditto	2384	1,500 00
23	ditto	4893	ditto		2406	131 20
24	ditto	4660	ditto		2237	11,000 00
24	ditto	4809	ditto		2321	4,000 00
24	ditto	4894	ditto		2396	15,000 00
24	ditto	4952	ditto		2487	105,845 00
24	ditto	4953	ditto		2488	1,000 00
24	ditto	1085	on Navy	ditto	8357	12,400 00
24	ditto	3104	on Treas'ry	ditto	9435	450 00
24	ditto	3105	ditto		9436	270 00
24	ditto	3878	on War	ditto	1468	9,900 00
29	ditto	1089	on Navy	ditto	8362	43,850 00
29	ditto	4931	on War	ditto	2459	23,050 00
29	ditto	4956	ditto		2448	20,000 00
29	ditto	4957	ditto		2449	12,000 00
31	ditto	4860	ditto		2373	42,000 00
31	ditto	4906	ditto		2418	4,800 00
31	ditto	5002	ditto		2507	20,000 00
Sept'r 1	ditto	4801	ditto		2310	200 00
1	ditto	4891	ditto		2402	4,000 00
1	ditto	4929	ditto		2452	15,000 00
1	ditto	5004	ditto		2497	3,729 37
1	ditto	5029	ditto		2536	8,000 00
3	ditto	4908	ditto		2422	2,800 00
3	ditto	4986	ditto		2456	10,000 00
3	ditto	4930	ditto		2453	20,700 00
3	ditto	5001	ditto		2511	26,260 00
3	ditto	5028	ditto		2537	137,000 00
3	ditto	4650	ditto		2228	1,000 00
3	ditto	5055	ditto		2559	2,200 00
3	ditto	5056	ditto		2561	5,686 00
4	ditto	3091	on Treas'ry	ditto	9421	5,000 00
5	ditto	3025	ditto		9348	1,800 00
5	ditto	3026	ditto		9349	1,185 00
5	ditto	3044	ditto		9371	8,393 75
5	ditto	3045	ditto		9372	450 00
5	ditto	5088	on War	ditto	2592	20,000 00
5	ditto	5024	ditto		2514	30,000 00
6	ditto	2801	on Treas'ry	ditto	93	5,000 00
6	ditto	2802	ditto		93	5,000 00
6	ditto	2803	ditto		93	5,000 00
6	ditto	2804	ditto		93	8,650 00
6	ditto	2857	ditto		168	4,821 00
6	ditto	3173	ditto		9512	24,000 00
6	ditto	5094	on War	ditto	2595	12,000 00
7	ditto	4911	ditto		2423	2,000 00
7	ditto	5087	ditto		2591	25,000 00
8	ditto	4928	ditto		2435	2,000 00
8	ditto	4947	ditto		2444	1,263 39
8	ditto	5083	ditto		2024	11,581 09
8	ditto	5101	ditto		2603	35,000 00
10	ditto	4685	ditto		2260	12,000 00
11	ditto	2858	on Treas'ry	ditto	169	200 00
12	ditto	3212	ditto		3212	41,275 31
12	ditto	3213	ditto		3213	4,000 00
12	ditto	5003	on War	ditto	2489	47,751 39
14	ditto	3225	on Treas'ry	ditto	9512	150,000 00
15	ditto	993	on Navy	ditto	8260	20,000 00
15	ditto	1071	ditto		8338	6,900 00
15	ditto	1081	ditto		8350	700 00

1838.						
Sept'r	15	To draft No.	3215	on Trea'y warrant	9535	$5,000 00
	17	ditto	4352	on War ditto	1955	335 00
	17	ditto	4784	ditto	2313	500 00
	17	ditto	4912	ditto	2427	1,500 00
	17	ditto	4927	ditto	2442	5,200 00
	17	ditto	5171	ditto	2667	2,690 00
	17	ditto	5209	ditto	2716	20,000 00
	19	ditto	1119	on Navy ditto	8395	13,750 00
	19	ditto	5198	on War ditto	2721	2,500 00
	19	ditto	5205	ditto	2731	2,967 50
	19	ditto	5227	ditto	2676	17,000 00
	20	ditto	5167	ditto	2664	3,000 00
	20	ditto	5257	ditto	2773	10,000 00
	21	ditto	1128	on Navy ditto	8403	9,697 00
	21	ditto	1131	ditto	8404	79,000 00
	22	ditto	4890	on War ditto	2400	25,200 00
	24	ditto	1133	on Navy ditto	8409	5,107 99
	24	ditto	4892	on War ditto	2404	540 00
	24	ditto	5302	ditto	2831	16,500 00
	25	ditto	5203	ditto	2708	8,139 00
	25	ditto	5336	ditto	2876	28,671 22
	26	ditto	4675	ditto	2250	6,000 00
	26	ditto	5332	ditto	2862	12,000 00
	27	ditto	5335	ditto	2867	305 36
	28	ditto	3276	on Treas'ry ditto	9596	5,000 00
	28	ditto	5344	on War ditto	2873	7,950 00
	29	ditto	5204	ditto	2709	3,081 00
	29	ditto	5359	ditto	2889	20,000 00
						$3,036,062 08

J. HOYT, *Collector.*

CUSTOM HOUSE, NEW YORK, *Sept.* 30, 1838.

Dr. *The Treasurer of the United States in account with Jesse Hoyt, collector of the customs for the district of New York.* Cr.

Date.	Specie payments.			Date.	Specie receipts.		
Nov. 19	To draft No. 1212, on Navy warrant,	8487	11,000 00	Nov. 17	By balance this date - - - -		627,199 92
	" 5984, on War "	3523	344 00	24	Specie, (or equivalent) - - -		225,000 00
20	" 5946, " "	3496	235 60				
	" 5915, " "	3467	2,332 00				
21	" 4885, " "	2388	1,428 00				
	" 6003, " "	3541	60,000 00				
22	" 1207, on Navy "	8482	60,000 00				
	" 1217, " "	8493	14,950 00				
	" 5967, on War "	3510	20,000 00				
	" 6026, " "	3585	14,480 00				
24	" 3634, on Treas'y "	85	450 00				
	" 3658, " "	10131	516 23				
	" 3671, " "	10143	46,258 13				
	To balance in specie, (or equivalent) - -		620,205 96				
			$852,199 92				$852,199 92

Custom-house, New York, *Collector's office, November 24th*, 1838.

(Signed) J. HOYT, *Collector.*

Return of moneys received and paid at the custom-house

Received.	
Amount of balance due United States from last return	10,021 48
received on bonds	213,051 34
on bond having been in suit	
of duties on imports	50,049 64
" on tonnage	200 00
of hospital money	199 90
of sundry receipts not included in other entries	1 53
of balance due Collector to be carried to next return	
Total amount	$273,523 89

No. ——.

Return of moneys received and paid at the custom-

Received.	
Amount of balance due United States from last return	340,763 04
Amount received on bonds	284,720 60
Amount received on bond, having been in suit	2,761 88
Amount received of duties on imports	28,036 00
Amount received of duties on tonnage	227 25
Amount received of hospital money	119 00
Amount of sundry receipts not included in other entries	
Amount of balance due collector, to be carried to next return	
Total amount	$656,627 77

at New York, from the 19*th to* 24*th November*, 1838.

Disbursed.	
Amount of Treasury notes taken in payment of duties, (old issue)	11,488 22
Treasury notes taken in payment of duties, (new issue)	681 20
bounties paid	20 88
debentures paid	15,821 20
payments on account of marine hospitals, &c.	4,413 01
payments on account of collections	598 65
payments to custom-house officers	339 54
revenue cutters and boats, contingencies, &c.	1,203 61
placed in separate account to credit of Treasurer	225,000 00
of balance due United States, to be carried to next return	13,957 58
	$273,523 89

Custom-house, New York, collector's office,
November 24*th*, 1838.

(Signed) J. HOYT, *Collector*.

house at New York, from the 11*th to* 16*th June*, 1838.'

Disbursed.	
Amount of Treasury notes taken in payment of duties, (old emission)	28,164 61
Amount of Treasury drafts paid and returned to Treasurer*	5,343 00
Amount of debentures paid	18,804 52
Amount of payments on account of marine hospitals, &c.	287 72
Amount of payments on account of collections	588 40
Amount of payments to custom-house officers	149 44
Amount of revenue cutters and boats, contingencies, &c.	2,130 12
Amount placed in the separate account to credit of Treasurer	500,000 00
Amount of balance due United States, to be carried to next return	101,159 96
Total amount	$656,627 77

Custom-house, New York,
Collector's office, June 16, 1838.

(Signed) J. HOYT, *Collector*.

*This means drafts drawn on other persons, and protested, which we had taken in payment of duties. J. H.

The counsel for defendant then called upon the counsel for plaintiffs for the documents referred to in the quarterly account current of defendant, bearing date the 31st day of March, 1838, and particularly the abstract of bonds, or bond books purporting to represent the number and amount of bonds transferred to the defendant by Samuel Swartwout, the former collector, which said abstract of bonds or bond book were produced by the plaintiff's counsel and put in evidence by the defendants, and which are referred to by George A. Brown in his testimony, to be inserted hereinafter.

The counsel for defendant then produced and examined upon oath, as a witness on his part, William C. Gray, who being shown the last of said series of transcripts, testified that the items therein purporting to represent that the defendant had received of Smith, Thurgar & Co. $750 78 of duties per the ship Josephine, and $952 54 by the Sarah Sheafe, were duplicated items. That the said items had before been credited by the defendant to the United States, and been charged by the latter to the former in the quarterly account ending the 2d day of March, 1841, and the witness showed the proper books of the custom-house to sustain the statement made by him.

William Moore, of the house of De Ram & Moore, was called as a witness in behalf of the defendant, and upon the counsel of the plaintiffs asking for what purpose the witness was called, and being answered by the counsel for defendant, that it was proposed to show by the witness that bonds had been abstracted from the custom-house without the knowledge of the collector, and that some of them had found their way as far off as Switzerland; and that the witness, as one of said house, had paid at the custom-house three several bonds of the firm of E. & G. Fehre & Co., then in Europe, to the amount of $3290, who had become possessed of said bonds without having paid the same, and that long after having had such possession the said firm directed the payment to be made, and it was accordingly done by the said house of De Ram & Moore. The counsel for the plaintiffs objected to such testimony, and the court decided that it was not competent, and the counsel for the defendant excepted to such decision.

William C. Gray, being again called on the part of the defendant, testified that he had the custody of the books and papers belonging to the custom-house, and that he belonged to the auditor's department of said custom-house; that he had been there since the 30th March, 1838, and was still there. On being asked to produce what was called "the form book" of keeping the accounts of the custom-house, when he produced the same, which was a volume bound up in the shape of circular instructions for keeping accounts in the custom-house, and was under the signature of the First Comptroller of the Treasury, and dated the 21st of July, 1821, which said book was offered and read in evidence by the defendant.

An abstract from said circular or "book of forms" is as follows:—

Abstract from "books of forms" forming circular instructions from Treasury Department, under date of 31st July, 1821, and labelled or

endorsed "Form book, Collector's office, New York," referred to by William C. Gray in his testimony.

The heading of said book or circular is in the following words and figures, viz:

"Explanations of the annexed forms of the accounts and returns of the collectors of the customs.

"TREASURY DEPARTMENT, *Comptroller's Office*, *July* 31*st*, 1821.

"A, This is the form of the Impost book," &c., &c.

"B, is the form of the Tonnage book," &c., &c. Here follows explanations numbered in figures, from 1 to 13 inclusive.

"C, is the forms of the Passport and Clearance book," &c., &c. Here follow explanations as before to No. 10.

"D, form of Interest book," with sundry comments.

"E, form of Marine Hospital book, and of the master's return, to be made to the collector," with explanations in figures from 1 to 4 inclusive.

"F, is the form of the Drawback book, on the exportation of foreign merchandise," with sundry comments.

"G, is the form of the book of bounties allowed on the exportation of pickled fish of the fisheries of the United States; together with the forms of entry, oath of the shipper, and bond to be given by him," with sundry comments.

"H, is the form of the Drawback book, in relation to domestic distilled spirits and refined sugar exported," &c., &c.

"J, is the form of the bond account, according to which the bonds as taken are to be regularly debited, and the bonds when paid credited."

"K, is the form of the journal, &c."

"L, is the form of the leger," &c.

"M, is the form of an abstract of drawback of duties on goods exported from a district other than that of original importation."

"N, is the form of the weekly or monthly returns, (as the case may be,) of cash received and paid away, to be made to the Secretary of the Treasury."

"O, is the form of the statement to be rendered by the Collectors, Naval Officers, and Surveyors, of their emoluments and expenditures." "This statement is required by the 2d section of the Compensation act of 2d March, 1799, and is to be verified on oath or affirmation, and transmitted annually, to the Comptroller of the Treasury, within forty days after the last day of December in each year."

"P, is the form of the return of public property," &c.

"Q, is the form of an account and vouchers for disbursements for the relief of sick and disabled seamen, in relation to which the Collector is referred to the acts of 16th July, 1798, and 3d May, 1802."

"R, is the form of an account and vouchers for disbursements in relation to light-houses." "When the two last mentioned accounts are settled at the Treasury, the Collector will be advised thereof, and in his next general quarter-yearly account of the customs thereafter, he

may charge the amount found due to him for those disbursements, but not before."

"S, is the form of a monthly schedule to be made to the Secretary, &c., of bonds taken," &c.

"T, is the form of a monthly return, &c., of debentures issued and paid," &c.

"U, is the form of a weekly return, &c., of bonds put in suit, and bonds in suit paid." "I now come to the form for stating and rendering the *general* quarter-yearly account current, lettered V, and shall commence by taking up, as first in order, the items on the credit side of that account, which are to be supported by the following documents, viz:"

(To understand the explanations here referred to, we annex a copy of the quarter-yearly account current, lettered V, from that book of forms, and that copy is as follows:)

V.

DR. *The United States, their general account of the customs with*
of commencing on the day of

1821.		No. of v'cher.	
June 30	To amount of payments made to inspectors, gaugers, weighers, and measurers, as per abstract and vouchers herewith	1	$413 54
	Amount of contingent expenses, as per ditto	2	110 00
	Amount of salaries of collector, naval officer, and surveyor, as per account and vouchers herewith	3	175 00
	Balance of store account as per ditto	4	20 00
	Amount of disbursements for the revenue boat, as per abstract and vouchers herewith	5	231 25
	Amount of debentures paid on the exportation of foreign merchandise as per ditto	6	125 00
	Amount of debentures paid on the exportation of distilled spirits and refined sugar, as per ditto	7	95 84
	Amount of bounty paid on pickled fish exported, as per ditto	8	100 00
	Amount of allowances paid to fishing vessels, as per ditto	9	276 46
	Amount of duties on merchandise refunded, as per ditto	10	60 00
	Amount of tonnage duties and light money refunded, as per ditto	11	288 00
	Amount of light-house disbursements in the quarter ending the , as per account adjusted at Treasury	.....	341 97
	Amount of disbursements on account of Marine Hospital, in the quarter ending the , as per ditto	.....	35 85
	Amount of moneys deposited in the Bank of to the credit of the Treasurer of the United States, as per cashier's duplicate receipts forwarded to the Treasury	.....	7,500 00
			9,772 91
	Amount of commisions, at two per cent., on (*a*) $8,367.92	.....	167 35
	Balance carried to new account, consisting of the following particulars, viz:		
	Bonds uncollected $23,488 58		
	Cash on hand 344 05	.....	23,832 63
			$33,772 89

COLLECTOR'S OFFICE, *District of* , *July* 1*st*, 1821.

454.

A. B., collector for the district of *in the State of* CR.
and ending the *day of*

1821.		Lett'd.	
April 1	By balance due the U. S. on settlement of acc't this day ...	.....	$10,000 00
June 30	Amount of duties on goods, wares, and merchandise, imported this quarter in American vessels, as per abstract herewith	A	8,968 00
	Ditto ditto in foreign vessels, placed on an equality with the vessels of the United States by treaty stipulations, or special acts of Congress, as per abstract...	B	7,553 18
	Ditto ditto in foreign vessels paying foreign rates, as per abstract.....	C	5,093 00
	Amount of duties on tonnage of vessels, as per abstract	D	287 60
	Amount of light money collected as included in abstract	D	200 00
	Amount of duties, passports, and clearances, as per abs't	E	22 00
	Amount of interest rec'd on custom-house bonds, as per abstract.....	F	20 59
	Amount of marine hospital money collected, as per abstract, viz.....$35 95	G	
	Deduct commission..... 71		35 24
	Amount of nett proceeds of unclaimed merchandise sold pursuant to law, as per abstract.....	H	1,189 10
	Balance of account of fines, penalties, and forfeitures...	J	404 18
			$33,772 89

A. B., *Collector.*

V.

DR. *The United States, their general account of the customs with*
of commencing on the day of

1821.		No. of v'cher.	
June 30	To amount of payments made to inspectors, gaugers, weighers, and measurers, as per abstract and vouchers herewith	1	$413 54
	Amount of contingent expenses, as per ditto	2	110 00
	Amount of salaries of collector, naval officer, and surveyor, as per account and vouchers herewith	3	175 00
	Balance of store account as per ditto	4	20 00
	Amount of disbursements for the revenue boat, as per abstract and vouchers herewith	5	231 25
	Amount of debentures paid on the exportation of foreign merchandise as per ditto	6	125 00
	Amount of debentures paid on the exportation of distilled spirits and refined sugar, as per ditto	7	95 84
	Amount of bounty paid on pickled fish exported, as per ditto	8	100 00
	Amount of allowances paid to fishing vessels, as per ditto	9	276 46
	Amount of duties on merchandise refunded, as per ditto	10	60 00
	Amount of tonnage duties and light money refunded, as per ditto	11	288 00
	Amount of light-house disbursements in the quarter ending the , as per account adjusted at Treasury	.....	341 97
	Amount of disbursements on account of Marine Hospital, in the quarter ending the , as per ditto	.....	35 85
	Amount of moneys deposited in the Bank of to the credit of the Treasurer of the United States, as per cashier's duplicate receipts forwarded to the Treasury	.....	7,500 00
			9,772 91
	Amount of commisions, at two per cent., on (*a*) $8,367.92	.....	167 35
	Balance carried to new account, consisting of the following particulars, viz:		
	Bonds uncollected $23,488 58		
	Cash on hand 344 05	.....	23,832 63
			$33,772 89

COLLECTOR'S OFFICE, *District of* , *July* 1*st*, 1821.

A. B., collector for the district of *in the State of* CR.
and ending the *day of*

1821.		Lett'd.	
April 1	By balance due the U. S. on settlement of acc't this day ...	.....	$10,000 00
June 30	Amount of duties on goods, wares, and merchandise, imported this quarter in American vessels, as per abstract herewith	A	8,968 00
	Ditto ditto in foreign vessels, placed on an equality with the vessels of the United States by treaty stipulations, or special acts of Congress, as per abstract...	B	7,553 18
	Ditto ditto in foreign vessels paying foreign rates, as per abstract.....	C	5,093 00
	Amount of duties on tonnage of vessels, as per abstract	D	287 60
	Amount of light money collected as included in abstract	D	200 00
	Amount of duties, passports, and clearances, as per abs't	E	22 00
	Amount of interest rec'd on custom-house bonds, as per abstract.....	F	20 59
	Amount of marine hospital money collected, as per abstract, viz.....$35 95	G	
	Deduct commission..... 71		35 24
	Amount of nett proceeds of unclaimed merchandise sold pursuant to law, as per abstract.....	H	1,189 10
	Balance of account of fines, penalties, and forfeitures...	J	404 18
			$33,772 89

A. B., *Collector.*

"*A*. *B*. and *C*. These are the abstracts of duties arising on merchandise imported." * * * * * * *

"These abstracts are to be extracted from the impost book." *

"*D*. Is an abstract, to be rendered quarter-yearly, of the tonnage duties, and light money, * * * * which is to be a literal copy from the tonnage book lettered B." * * *

"*E*. Is an abstract, to be rendered quarter-yearly, of moneys collected on passports," &c.

"*F*. Is an abstract, to be rendered quarter-yearly, of interest received on duty bonds not paid at maturity," &c.

"*G*. Is an abstract, to be rendered quarter-yearly, of marine hospital money collected," &c.

"*H*. Is the form of the abstracts to be rendered of unclaimed merchandise sold. * * * Reference is made to the 56th section of Collection law of 2d March, 1799."

"*J*. Is the form of the account to be rendered to the Treasury of fines, penalties, and forfeitures. A pecuniary mulct, specially defined by law, may be received as a voluntary payment, from the party incurring it, without going through the forms of a suit at law for its recovery." Here follows a reference to various acts of Congress on subject of fines, &c., &c.

"I shall now proceed to notice the items on the debit side of the general account current, lettered V, which are supported by the following documents, viz:"

Here follows a list, numbered in figures from 1 to 11, inclusive, and small letters from *a* to *g*, inclusive.

* * * * * *

"The Register of the Treasury will furnish the collectors with the forms of the returns to be made to his office, in conformity with the provisions of the act of 10 February, 1820," &c.

* * * * * *

"Anxious to afford the collectors every facility in the performance of their official duties, I have endeavored to explain those duties, and the nature of the accompanying forms, as satisfactorily as possible."

* * * * * *

"Respectfully, &c."

The witness further testified that there are more than fifty accounts which make up the quarterly account current of the collector, and that the accounts are now kept in conformity to the form prescribed in that book of forms; but there are other accounts than those in that book, which have become necessary by reason of new laws and new instructions from the Department. From the end of one quarter, it takes three months to make up and finish a preceding quarter's accounts. It was not easily done during the period of Mr. Hoyt's term of office in that time. There were over twenty-five clerks employed in making up the quarterly accounts; seldom less than twenty-five, often more. The duty of superintending the making up of said accounts was entrusted to

Mr. Fleming, the then auditor of the custom-house. It was not possible for the auditor to revise the various accounts with the items which entered into the quarterly accounts. The auditor only saw that the accounts were properly put together. The work was divided out among the clerks, each of whom had his separate business; the auditor examined the footings, and compared the results; the liquidation of duties were under two heads, that is, cash duties, and duties for which bonds were taken. The quarterly accounts did not denote the amount of cash received, it denoted the amount of duties accrued, which should have been received either in cash or bonds. In the quarterly account there is nothing to indicate whether the collector received the amount of duties credited in the account current, or whether it was received in the collector's office, or by the cashier of the customs, or any other person attached to the custom-house. The quarterly account represents things as they ought to be. The defendant while collector, never examined an account current, or tested its accuracy. It was impossible for him to do so. Mr. Hoyt was in a separate room from the auditor; his engagements were such as to confine him to his own room, to the exclusion of the auditor's room, where the accounts were kept and made up. Mr. Hoyt has had but one clerk since he ceased to be collector, and that one has devoted his time to the examination of Mr. Hoyt's official accounts, except the time he has been employed in assisting in preparing for trial, and attending as a witness in the seizure cases, which was most of the time from May, 1842, to the latter part of December of the same year.

Mr. Hoyt has been at the custom-house almost the entire time since he left office, but he could not, by the aid of one clerk have examined his accounts in two years, when it took twenty-five clerks a period of three years to make up the same accounts. In that period of three years, there were over 1000 volumes of books used. Mr. Hoyt signed his quarterly and other accounts that were brought to him for signature, without reading or examining them. To do this would have been impossible, and he therefore signed them as a matter of form, without knowing any thing of their accuracy, and if he had examined them he could not have told, nor could any other single individual have told, whether they were correct or not. When Mr. Hoyt went into office there were four deputy collectors; of those he retained two, Mr. Campbell and Mr. Bleecker. In the room of the two he left off, were Mr. Davis and Mr. Mumford. In the cashier's department, when Mr. Hoyt went into office, there was Mr. Henry Ogden, cashier, Mr. Joshua Phillips, assistant cashier, Mr. Ralph and Mr. McDaniel, clerks to cashier. The cashier and assistant remained under Mr. Hoyt till some time in November, 1838, when they resigned, and Mr. Waters was appointed cashier, and Mr. Bleeker, who had been a deputy was appointed assistant cashier. Messrs. Ralph and McDaniel remained as clerks till March, 1839, when they resigned or were removed, and Mr. Tiffany and Mr. Mitchell were appointed in their places. On cross examination the witness stated that the quarterly account presents what ought to be the state of the accounts. If a vessel arrives the last day of a year, all the

duties are charged in that quarter, though not a dollar may have been received till the next quarter. The duties are charged as of the day when the vessel enters at the custom house, and not of the day when the duties are collected or secured. The duty of the naval officer is to examine all the accounts, and this is intended to be a check upon the collector's accounts, as well for the protection of the Government as collector. The number of clerks in the collector's office is between seventy and eighty. The amount of duties on each entry is ascertained from calculation, for which the cashier must receive either the cash, or a bond. The entries are scattered through the impost book and cash books. It would take a long time to examine all the entries. Results might soon be examined by adding totals, but this would be no test of accuracy. The quarterly accounts are but results; errors would be found more likely in details.

By the court. Is it practicable to detect any error or fraud in these accounts, if there be any?

Answer. Certainly.

By the defendant's counsel. How long would it take two persons to examine these accounts?

Answer. It would take a number of years for them to go over the identical work originally gone over, including all the calculations. It would not take a long time to go over the accounts by comparing results.

Edward Curtis being called and sworn as a witness for the defendant, testified that he is the present collector of the port of New York, and that he entered upon the duties of the office on the 23d of March, 1841, and succeeded John I. Morgan, who held the office twenty days after Mr. Hoyt went out. The current business of the office leaves very little time for the collector to devote to the paper statements from time to time transmitted to the Treasury Department. This branch of duty must be confided to others. The witness reads over the weekly returns of money received and paid, made out by the auditor to see if it is correct. This is all the witness or any other man holding the office can do. The witness does not actually receive any money. At the close of the day, the cashier deposites the amount on hand in bank, to the credit of the Treasurer of the United States. The collector cannot examine the detail of the quarterly accounts current; he cannot know the details that enter into the account. He must confide in his chief clerk. He places great reliance in the naval office, and as it has been recently organized, is a perfect check in the opinion of the witness. The same auditor is not employed in the custom-house now that was employed in the time of Mr. Hoyt. There have been changes in the system of keeping and checking the accounts in the naval office since he (the witness) has been in office. In a year's time there are 2400 entries, and it would be impossible to examine them in the time since Mr. Hoyt left office. A series of the impost books were in Philadelphia in the service of the United States for a long time since Mr. Hoyt commenced the examination of his accounts, and his official correspondence were removed

from the custom-house, and kept away from November, 1841, to July, 1842.

On his cross examination, the witness stated that the labor of keeping up the correspondence and the current duties of the day, engrossed the whole time of witness. I have ascertained the amount of cash duties on a particular day. This same examination was made in the naval office and the collector's office, and it took six weeks. I never saw the time when I could go through the bonds. I receipted to my predecessor for six millions of bonds of various amounts. After Mr. Fleming, the then auditor of the custom-house, and others went over the account, I deputed two other persons to examine them, and there were considerable errors then found. There is a set of books kept now which were not kept previous to my going into office. The entries in the naval office now are a perfect check on the cashier of the collector's office. The books of the naval office show daily what ought to be received in the cashier's office. The cash book of the cashier in the collector's office under the former administration was merely copied in the naval office, but now the naval officer has his cash book, which operates as a check upon the collector's. There are sixty accounts of which abstracts are made and sent to Washington quarterly.

The counsel for defendant hereupon referred to "book A," of bonds transferred by Mr. Swartwout to defendant hereinbefore referred to, and at page 77 of said book it appeared that defendant had receipted to him and credited the United States with A. & G. Rolston's bond numbered 1702, for the sum of $5214, which was dated 12th March, 1838. The counsel also referred to book of railroad bonds extended, whereon appeared the following entry opposite and in relation to said bond:

"$2292 66 cancelled in part 2d quarter, 1839.
2318 11 " " 1st " 1841.
603 23 paid " " " 1841."

William S. Sloan being called and sworn as a witness for defendant, testified that he was a clerk of Wm. G. Bull & Co., who were the agents of A. & G. Rolston; that said Bull and Co. paid by a certified check on the city bank, which the witness produced, on the 12th of March, 1841, the balance of the bond numbered 1702, which balance was $603 23. Mr. Bull drew the check himself, and is now at Hartford, Connecticut, but is expected back in a few days. The bond was delivered up by Messrs. Bull & Co. to Messrs. Rolston.

George A. Brown, being called and sworn as a witness on the part of the defendant, testified that he had been a clerk in the custom-house, and was appointed and entered upon the duties of the station the first of May, 1838. That he remained in until some time in April, 1841. That he had been most of the time since that period in the employ of the defendant, assisting in the examination of his official accounts. That the bond numbered 1702 should have been receipted for by Mr. Morgan to Mr. Hoyt, and by the latter charged to the United States, that is, all but the $2292 66 cancelled in the second quarter of 1839, but it was not. Has examined cash books of office, during the time of Mr.

Morgan and Mr. Hoyt, and can find no entry of the cash payment of $603 23. Entry ought to have appeared on book kept during Mr. Morgan's time, as it was then paid; the bond not receipted for by Mr. Morgan to Mr. Hoyt, and stands charged to Mr. Hoyt. The counsel for defendant here introduced in evidence the book from the custom-house called "book of bonds taken," in which, on the closing up of the bond account for the purpose of ascertaining the amount for which Mr. Morgan was to receipt to the defendant, the following entry appears: "deduct for difference as per account of bonds transferred to John I. Morgan, $2,877 44." The witness, Mr. Brown, then stated that it would seem from this entry on the book of bonds taken, that the bond account was forced to a balance, that is to say, that Mr. Hoyt was charged with more duties than had been secured by bond, or that bonds had been abstracted or some other way disposed of, so that Mr. Hoyt lost this amount. The witness had not examined the particulars, of which the $2,877 44 was composed. He had only examined to ascertain whether the interest on bonds had formed that difference, and he found that interest on bonds was a different item, and had no connection with the amount before stated. The payment of the $603 23 should have been in the cash book of Mr. Morgan, but it was not. *By counsel for plaintiff*. *Question*. How many errors have you found in that book?

Answer. In all eighteen. I have given the particulars of five. The remaining thirteen errors are in amount less than $100.

Witness had made schedules of errors found in bond, abstract of bonds transferred by Mr. Swartwout to Mr. Hoyt, and were as follows:

Statement from books of "bonds taken."

Date.	Or'nary bonds taken and bonds received from S. Swartwout.	Special bonds taken.	Am't of bonds paid.	Railroad bonds cancelled.	Ordinary bonds cancelled.		
From S. S.....	8,331,104 86						
1st q'r '38, 3 d's.	64,760 05	2,652 06	66,079 13				
2d " "	1,440,232 18	282,004 14	2,855,321 30	114,599 78			
3d " "	1,705,094 71	278,790 72	2,554,425 12	12,657 88	-	500 00	Error in amount from S. S.
4th " "	1,618,032 17	154,409 06	2,032,723 71	79,133 50	719 69		
1st " '39 "	2,671,945 56	215,720 63	1,993,407 04	24,482 21			
2d " "	2,471,736 37	381,306 05	2,388,405 87	27,396 62			
3d " "	2,552,495 05	278,383 07	2,799,497 25	68,362 06	3,544 22		
4th " "							
to 13th Dec.	1,024,256 27	157,711 99	2,284,018 71	77,649 41	260 78		
Error 3d q'r '39.	2,011 00						
4th q'r '39 14th.							
to 31st Dec.	102,097 05	12,664 37	384,602 11				
1st q'r '40	1,280,391 90	103,798 97	2,096,020 10	59,760 06	27,796 20		
2d " "	890,320 43	180,372 52	1,340,649 56	103,873 57	2,688 68		
3d " "	1,114,729 70	186,219 85	1,174,068 31	22,391 62	206 54		
4th " "	929,796 16	102,916 59	1,158,765 83	1,559 94	221,776 09	61,516 27	Collected by Price.
1st " '41 to.							
2 March	1,292,190 66	154,405 32	872,160 12	77,182 02	3,496 50		
					89,464 99		
	27,491,194 12	2,491,355 34	24,000,144 16	669,048 67	349,953 69	62,016 27	

Ordinary bonds.....	27,491,194 12	Bonds paid.....	24,000,144 16
		R. R. bonds cancelled.....	669,048 67
	29,982,549 46	Ordinary bonds cancelled.....	349,953 69
Deduct for differences*.....	2,877 44		
			25,081,162 79
	$29,979,672 02	Transferred to J. I. Morgan.....	4,898,509 23
			$29,979,672 02

(*Note to previous page.*)

* To this amount of *differences*..... $2,877 44
add..... 2,237 48 *gen'l bonds* put *in suit* by J. H., and transferred as *ordinary* bonds to J. I.
making..... $5,114 92 Morgan.

Amount of *ordinary* bonds taken, and *ordinary* bonds received from S. Swartwout.....	.....	$27,491,194 12
Add *special* bonds taken.....	.....	2,491,355 34
Making, to be accounted for.....	.....	$29,982,549 46
Amount of bonds *paid*.....	$24,000,144 16	
Railroad iron bonds *cancelled*.....	669,048 67	
Ordinary ditto ditto.....	349,953 69	
Bonds collected by Price.....	61,516 27	
Error in amount receipted for to Swartwout.....	500 00	
Transferred to J. I. Morgan.....	4,898,509 23	
Deduct for differences as per amount of bonds transferred to John I. Morgan.....	.....	2,877 44
	$29,979,672 02	$29,979,672 02

In the amount transferred to Morgan, as above, there is $2,237 48 of general bonds *in suit*, and which amount is used to balance both the *general* and *ordinary* bond accounts. It is therefore used *twice*, and should be added to the *differences* as above, making the *difference* $5,114 92, *unaccounted for*.

None of these errors in the bond accounts had been reported to Mr. Hoyt by the accounting officers at Washington, except those which appeared in the adjustment of the account for the first three days. Mr. Hoyt received a letter from the Department about September, 1841, calling his attention to some bond, which led him to an examination, when he discovered some errors in the bond account, which satisfied him of the necessity of examining the account of bonds transferred by Mr. Swartwout to him. Witness being shown the abstracts of bonds sent to Washington, which had been produced by the counsel of the United States in the case of the defendant, when witness stated that such errors appeared to have been noticed on the latter abstracts, but no notice had been given to Mr. Hoyt of any of them.

The counsel of defendant introduced, and read in evidence, a letter from defendant to the Comptroller, under date of 6th of September, 1841, in words and figures following:

NEW YORK, *September 6th*, 1841.

SIR: Your letter of the 3d instant, covering the Treasury adjustment of my accounts for the fractional part of the first quarter of this year, reached me this morning. I immediately submitted the adjustment to Mr. Fleming, the auditor of the custom-house, but as he was preparing to leave town this evening for a week, we had not the opportunity to go through with the examination in detail. On his return we shall go into an examination, and submit some remarks on the various items in that adjustment. We, however, partially examined the books of the office to enable me to give you the information as to the bonds about which you say, "you will please explain," and we found the following to be the facts in relation to them, as far as the examination proceeded.

1. As to Alfred Waller's three bonds, amounting to $136. These bonds were paid to my predecessor in office on the 8th of March, 1837, and entered on the cash book; and yet it appears that in the abstract of bonds I receipted to him, these bonds were included, which should not have been, and for which I would appear to be liable, when in fact the bonds were never in my possession, or collected by me. This circumstance may lead to a discovery of errors, which I know must exist somewhere in the accounts. The Department can well understand that it is impossible for the collector of this port to make a personal examination of the accounts returned to the Treasury. The abstract of bonds referred to never underwent my examination, but was receipted for by me under the belief that it was an accurate statement, it having been prepared by the clerks in the auditor's room. Indeed, no individual can perform the duties of the office of collector of this port necessary to be discharged by him, and at the same time examine the various papers required to be certified from his office. By the instance herein presented, it is manifest that in order to an accurate understanding of the condition of my accounts with the Treasury, it will be necessary to begin an examination of them with the day I entered the office, which involves a labor of no ordinary extent.

2. In reference to Edwin Lord & Co's bonds, there are some circumstances which I would be glad to have explained by some one in the Treasury Department. The bond of $239 was transferred as a bond in suit on the last page of the abstract. I think there is no record in the department of a bond of this firm for $1,482. We never have had such bond to my belief. Will you be so good as to furnish me with the information you have on the subject? The bond for $72 80 was paid on the 11th of May, 1839, and is no doubt in the accounts of that quarter. The bond for $73 was put in suit 9th May, 1840, and was transferred; see last page of abstract. The bond for $998 was put in suit December 31, 1839, and was transferred. This accounts for all the bonds of Lord & Co., except the one for $1,482, about which I call upon you for information. The bond of James Lee for $238, was paid in advance of maturity on 21st March, 1840, and no doubt will appear in the accounts of that quarter. The bond of Bruen for $847 20 is unpaid, and still belongs to the abstract of bonds in suit, but which does not appear in that abstract, by reason of an error of the following character: We had authority to cancel the bonds of Ballastier & Co. This bond of Bruen was next in order on the book of bonds in suit, and the clerk who entered on the book the cancellation of Ballastier's bonds, entered also the cancellation of Bruen's, and by reason of which the clerk who made the abstract of bonds in suit left off that of Bruen. This bond then, of course, should go to my credit, on my obtaining the supplemental receipt of Mr. Morgan.

The bonds of M'Culloch were cancelled on 20th of August, 1840, by order of the comptroller, under date of 24th July, of that year, and was returned in the account of that quarter in statement No. 22.

The bonds of Wales were by the Arethusa, a vessel that never ar-

rived, but was wrecked on Fire island. The iron came up in lighters some time afterwards, and the books are in the abstract of bonds taken in second quarter of 1840, the first page.

The bond of the Norwich and Worcester Railroad Company for $318, is in the abstract of bonds taken the fourth quarter, 1839, first series, and the number should be 19,754, and not 98.

The adjustment you sent was without signature.

Respectfully,

J. HOYT, *late Collector*.

To WALTER FORWARD, Esq., *Comptroller, &c.*

The witness said the correspondence, of which the above letter formed a part, was the cause of Mr. Hoyt's going into an examination of the bond account, when the errors before spoken of were detected, but the examination was not made, for want of time, of any of the bonds, except those received from Mr. Swartwout. The number of volumes of bonds taken for duties by Mr. Hoyt, while in office, was between four and five hundred, and in each volume there were two hundred bonds, which would make about one hundred thousand bonds in all, and the time that would be consumed in an examination to test the accuracy of which, with the view of ascertaining whether the amounts, together with the cash duties, would correspond with the gross amount of duties charged by the United States to Mr. Hoyt, would be very great. The bonds transferred to Mr. Hoyt by Mr. Swartwout formed about one-tenth part of the subject of bonds. While witness was in the custom-house under Mr. Hoyt, the most of the time of witness was devoted to the correspondence. Mr. Hoyt wrote all the letters, except the formal ones relating to the accounts; these were written by the auditor and witness, and two other clerks were mostly occupied in copying and recording them. Mr. Hoyt wrote with great rapidity; no part of his time was unemployed. He was absent but two business days during the time he was in office, one of which was on an official visit at Washington, and the other on a like visit to a light-house at Fire island. He was usually the first one at the office in the morning, and generally by eight o'clock.

Witness considered himself a competent accountant. He generally made the deposites in bank. The money was received in cashier's office, and principally in the checks of merchants, and at about half past two daily. The gentleman in that office made up the deposite for the bank, and also a list which contained a separate entry of each check, and the amount of cash. This list, with the checks and what bills and specie there were, was handed to the collector's clerk, who was to make the deposite, and by him the list was copied, which copy was left at the bank, and the original, which came from the cashier's office, was filed and preserved by the collector's bank clerk, from the 1st of May, 1838, when the banks resumed, till the 2d of March, 1841, when Mr. Hoyt went out of office.

Tallman J. Waters being called and sworn as a witness on the part of the defendant, testified that he was cashier of the custom-house from

the 22d day of November, 1838, during all the remaining term that Mr. Hoyt was collector. When the witness came in, Mr. Henry Ogden was cashier and Mr. Phillips assistant. Mr. A. V. Ralph and Mr. M'Daniel were clerks. Witness took the place of Ogden and Phillips. They delivered possession of the books and papers to witness on the day last mentioned. Ralph and M'Daniel remained, and Mr. Joseph R. Bleecker took the place of Phillips. The paper which I now have in my hand I found in a drawer some time after Mr. Phillips left. It is in his handwriting, and purports to be a private cash account from 18th July, 1838, to 21st November, 1838, showing the daily errors or fluctuations of the cash balance in the cashier's office. It was a document independent of the cash book, and exhibited the difference between the cash book and that account, and seems to have been for private purposes. The cash by this paper appeared to be over, on the 21st of November, the sum of $543 59. It is in the handwriting of Mr. Phillips. It is a check list of his daily statement, showing the difference between the amount actually on hand and what appears from the cash book. The errors, the difference or balance, Mr. Phillips did not pay over to me when I entered upon the duties of office of cashier. I showed the paper to Mr. Hoyt soon after I found it, who sent to Mr. Phillips for the amount; and I understood he returned a part of it, say about $250, to Mr. Hoyt. Mr. Phillips was in cashier's office a long time before Mr. Hoyt came in.

Mr. M'Daniel and Ralph were removed or resigned in March, 1839. It appeared that Ralph and M'Daniel were in the habit of signing receipts in the name of merchants for discounts which such merchants were entitled to have allowed for cash payments when they were entitled to bonds for duties. They took the money from the drawer and signed the receips, when the merchants in fact did not get the money. Mr. Hoyt issued a circular to the merchants, requesting them to call and state whether the money had been received by them. It appeared in many instances it had not, when Mr. Hoyt removed those clerks or required them to resign, and which witness does not recollect. Those receipts represented money, as they were charged by Mr. Hoyt as a disbursement, and the receipt was his voucher, and if the merchant did not get the money, it was a false and fraudulent voucher, so far as the accounts were concerned, as well as a fraud upon the merchant. Mr. Tiffany and Mr. Mitchell were put in the places of Ralph and M'Daniel.

The witness says he received as cashier all the revenues but that paid under protest prior to the fifth of March, 1839; that which had been paid under protest, prior to that time, was received by Mr. Hoyt's own clerk, and the balance which had not been refunded by Mr. Hoyt, in pursuance of directions from the Treasury to the merchant paying the same, and which had not been previously paid into the Treasury, was, on the 11th of November, 1839, all paid to witness, and entered by him in the cash book, and also recorded in a separate book called the protest book, and the old protest account, so far as the money was concerned,

was closed. The suits to recover back the money from the collector were not closed or disposed of. The statement closing that account was sent to the Secretary of the Treasury, with a letter which was read to the court and jury, which the witness recognised as the one.

Mr. Hoyt had no participation in the receipt or disbursement of the money in the cashier's office, or in making any entry in the books in relation thereto. He made it a rule not to receive or disburse a dollar. The witness disbursed for daily expenses, and what remained at the close of the day, saving a small amount for use the next morning before anything should come in, was handed to the collector's bank clerk, with a list of the amount, specifying the currency in which it was in, whether checks, specie, or bank bills. The collector received nothing but what was so handed to his bank clerk. These amounts appear on the daily deposite lists. The collector paid to the cashier's department every month from thirty to thirty-five thousand dollars, by his check, to enable the cashier to pay off the inspectors, weighers, and other officers, except the clerks, who were paid by the auditor up stairs. These checks of collector were for round sums; and the witness appropriated them, and if not all exhausted during the pay day, as it was called, the balance was deposited at the close of the day with the other moneys, and formed a part of the deposite list. The clerk's salaries, which amounted to between six and seven thousand dollars a month, and sometimes more, the collector gave his check for to the auditor of the custom-house, whose duty it was to pay it out and take the proper vouchers therefor, and charge it in the appropriate account. The funds so deposited daily in bank, by witness, the collector applied according to the orders of the Treasury Department in paying drafts drawn on him by the Treasurer of the United States, and in depositing in bank to take up treasury notes, and with the receiver general, after that officer was created. When accounts were audited in the auditor's department of the custom-house, he drew his check on the cashier for payment, and if there was not money in the cashier's drawer to meet the same, the collector would be called on for his check to meet the payment, which reduced the amount the collector held on deposite from the cashier; and it being applied to the use of the United States, it reduced the cash balance the collector owed the Government, and it affected the cash in the hands of Mr. Hoyt the same as though he had paid a draft of the treasurer; but as the money which had been deposited with the collector was passed by him to the separate credit of the treasurer, and held subject to his draft, and other orders of the Department, the witness deducted the amount he received back from the collector from the amount he had before deposited with him, or the collector would have been exposed to a draft for the whole amount so deposited, though he should have disbursed one-half of it for the expenses of the office. It was the difference between the receipts and expenditures that was applied to the use of the Government.. The treasury notes were received in the auditor's room, and audited and cancelled there; they were never seen by the collector or cashier, but the auditor drew his check on the cashier for the amount

of such notes in favor of the person having the duty to pay, and that check the cashier received in payment of bonds or cash duties; and the amount of the treasury notes were daily entered in the cash book in a gross sum, corresponding with the amount of auditor's checks for the day, which had been drawn for such notes.

On being cross examined the witness said that the naval officer and auditor ought to have been a perfect check on the cashier. The naval officer had the cash book of the collector every day for examination by order of the Treasury Department, to the great inconvenience of the cashier's office. Witness examined his cash every day, and kept an account of daily errors in a form that would be as good a test as that private cash account kept by Mr. Phillips. Witness's cash often overrun, and it might do so in good faith, and he had a balance at the end of almost every quarter which he paid over to the collector. The collector is charged with the amount of duty appearing to have accrued by the abstract and impost book, without reference to the fact whether it had been collected or not; and if the money was abstracted it would be the collector's loss, as he is charged with the duty and not with the bonds or cash he receives. All the money received in the office, then, belongs to him in the first instance.

Witness does not know how the accounts are made up. That is the business of the auditor. Any interference with him was considered intrusion; and I had not, therefore, that intercourse with him which our respective positions in the department might have indicated. Mr. Fleming, the auditor, said interference with him would be deemed intrusion. Witness does not know that Mr. Hoyt knew this. He was so much occupied, and his labors were so great, that I did not go to him oftener than it was absolutely indispensable. The accounts of the custom-house are intended to be so kept that the entries of merchandise would be evidence of the receipt of cash or bonds for the amount of duties appearing on the entry as computed by the entry clerks; and if Mr. Hoyt is charged with the duty, any deficiency would be to his detriment. The duty is in the first instance computed by the various entry clerks, of whom there are sometimes six or seven, and marked upon each separate entry with the figures showing the process by which the amount is arrived at, and by that computation the cashier is governed in the receipt of the duty. It undergoes subsequently an examination by the liquidating or impost clerks, and if error is found, the collector is charged with the true amount of duty. The existence of an error or a deficiency of any sort would show that the accounts were no sufficient check upon each other. A difference is evidence of error, and in the ramification of custom-house accounts, an error of five dollars might creep up to as many thousands before the error could be corrected, or traced to its foundation. The naval officer has duplicate entries of the merchandise and ships entered, and it was his duty to have seen that the amounts of duties on the entries of merchandise in his office were collected, and that corresponding entries were made for the same in the collector's books. I am not acquainted with the manner in which that officer

made his examinations, but think that it was not such an examination as I should have liked had I been collector.

The witness is shown the deposite lists from November 22, 1838, to the 2d of March, 1841, and says these are the lists he has before referred to, and they are the true representation of the amounts daily handed over to the collector's bank clerk

On further cross examination witness says, we usually retained about $100,000 for the next day's expenses, debentures, &c., which sum was not deposited in bank. Before 1839, the money paid under protest was paid to the collector in person. In the case of Mr. M'Daniel, the fraud he practised operated to the prejudice of the Government and the merchant—not to the injury of Hoyt. I kept my account the same as Phillips did, and kept a loose memorandum such as I found of his after he left. The amounts are entered in the cash book, and applied to a particular item. It often happens that we have not the necessary paper to enter it, and make the necessary designation or application of it. In such a case we omit to enter it, and retain the money until the next or some other day when the paper comes in. We then enter it, and make the proper application. The paper of Phillips was his memorandum of moneys not entered, for want of the necessary paper to make the application. I kept a similar memorandum.

Henry Ogden, a witness produced and sworn on the part of the defendant, testified that he preceded Mr. Waters, as cashier of the custom-house, under Mr. Hoyt. He had been in that situation in the custom-house nine years. The same course of business had been pursued while he was cashier under Mr. Hoyt as described by Mr. Waters while he was cashier, so far as related to the receipt, disbursement, and deposites of money after the resumption of specie payments by the banks, about the 1st day of May, 1838. From the commencement of Mr. Hoyt's term of service to the 1st of May, 1838, the balance of money, after the payment of expenses, in the hands of Mr. Hoyt, was the sum of $35,793 68, and he commenced on the 1st of May with that amount of cash on hand. The drafts of the treasurer on Mr. Hoyt were all paid by Mr. Hoyt from funds in his hands, and were not paid through the cashier's office. For the payment of the officers monthly, the collector gave his check in same manner as described by Mr. Waters. Checks were generally drawn the last day of the month, or the day before the officers were to be paid off, in order to give time to get the bills in convenient denominations for payment.

On being cross examined, the witness said collector received the money paid under protest as described by Mr. Waters during the suspension of the banks. Witness kept the money in a trunk deposited by him in bank, and of which witness kept the key. He never saw till now the memorandom of cash account kept by Mr. Phillips. He never knew of any differences of Mr. Phillips or Mr. M'Daniel till now. Nothing of the kind occurred in his time that he knew of. Mr. Hoyt never received or paid out any money in cashier's office, or made any entry in the books. Witness made no entry in the books in cashier's office.

The entries were made by Mr. Phillips in the cash book, and in the minor books by the clerks.

Being again examined by defendant, and shown a large number of checks drawn by defendants on banks, and was asked to identify the same, or such of them as he could, when witness said he recognised some of them that passed thro ugh his hands and had his marks upon them, and which had been applied in payment of demands due from the United States to various individuals for debentures and other claims; and the witness turned to the cash book to show how it had been done, when it was suggested by his Honor Judge Betts that it would be better to verify the checks in some form less tedious, and intimated that some clerk could examine the books out of court, and make up a schedule; whereupon the suggestion of the court was assented to by the counsel of both parties, and to that end the checks were put into the hands of George A. Brown, a witness already sworn, and also for this purpose the cash book and debenture book from the 1st day of May, to the 22d day of November, 1838, were considered to be in evidence.

Tallman J. Waters was again called as a witness on the part of the defendant, who testified that he had been called upon by certain commissioners, who purported to act under the authority of the President of the United States, for a schedule of the moneys paid by him as cashier of the customs to Mr. Hoyt, the collector, and also of moneys received by him as such cashier from the collector. He had furnished these schedules; the one representing the amount paid to the collector had been published, and the other had not. Mr. Hoyt had asked the witness for a copy of the latter, which he had furnished to him, and the paper now shown to the witness was the one, and it showed that he had received from time to time, as such cashier, from Mr. Hoyt, to apply and which was applied to the use of the United States, the sum of $2,553,996 02; and which sum was received from the funds in the hands of Mr. Hoyt, which had been deposited with him by the witness as the cashier of the customs.

George A. Brown being again called as a witness for the defendant, stated that he had, in pursuance of the suggestion of his Honor Judge Betts, taken the checks which had been shown to Mr. Ogden, and had compared them with the cash book and debenture book from the custom house, and found that the proceeds of all of them appeared upon said books as having been paid for claims against the United States, and which had been charged to the United States in the quarterly accounts. He had made a list of the same, which was a transcript of the cash book and debenture book, and the list and payments so made from the first day of May, to the 21st day of November, 1838, inclusive, amounted to the sum of $355,138 28. It appeared by the bank book of Mr. Hoyt, that all the checks had been paid; and it appeared by the cash book in the collector's office, that such payments had been applied to the use of the United States. The checks had been drawn on funds deposited in bank by Mr. Hoyt, which he had received from cashier. Treasury notes did not enter into the cash transactions of the office. They were

not redeemed by the collector, but taken in payment of bonds and cash duties. They were received and audited by the auditor up stairs. Mr. Hoyt never saw them either when they were received or forwarded to Washington. They were cancelled as soon as received, and the Monday of each week were sealed up in packages by the auditor and sent to the First Auditor of the Treasury. The whole amount received during Mr. Hoyt's term was over three millions and a half, as appears by quarterly accounts. The protest account was closed on the 11th November, 1839, and the money paid into the cashier's office by the collector. This was for money received prior to the act of Congress which required it to be paid like all other money into the Treasury. The witness made up the account, and closed it and filled up the check for the balance, and handed it to the cashier. It formed a part of the deposite list of 11th November, 1839. The cashier entered it on the cash book of that day and on protest book. The money paid under protest after the 4th March, 1839, was paid to the cashier as all other moneys were. The following letters were read in evidence by the defendant.

CUSTOM-HOUSE, NEW YORK, *March 19th*, 1839.

SIR: We forwarded the weekly returns yesterday to the Treasurer in the form prescribed by your instructions of the 13th inst.

In looking over the letter more carefully, we suggest the alteration pointed out in the accompanying letter of Mr. Fleming, the auditor. In the adoption of the course suggested by Mr. Fleming, great convenience would result to the merchant as well as your Department and our own. I would request an answer by return mail, that we may regulate this week's accounts accordingly. There are one or two surpluses of deposites now called for and waiting to be settled. By your present instructions we cannot settle with the merchant before the end of the month. We could settle at any time under the plan we suggest. We have not time by this day's mail to go more fully into the matter, but we think we have said enough to enable you to see the advantage.

Respectfully,

J. HOYT, *Collector*.

To JAMES N. BARKER, Esq., *Comptroller*.

CUSTOM-HOUSE, NEW YORK,
Auditor's office, *March 19th*, 1839.

SIR: I would respectfully suggest, in regard to that part of the Comptroller's circular of the 13th instant, wherein he requires that we should make "exhibits of the sum necessary for the purpose of refunding excesses in deposites to importers to the Secretary of the Treasury monthly," &c., and "on which the Secretary will issue his warrant for the same," &c., that we be permitted to refund the excesses of deposites daily, as they may be called for, taking at the time duplicate receipts, and at the expiration of a month to apply to the Department for the true excess that has been paid out. In the mode required by the circular we shall in many cases have the money long before it will be called for,

and in others be called upon to settle the deposites before we are supplied with means.

It will also be a source of much labor and difficulty to ascertain the amount of duties due on deposites for an entire month in advance. The length of time required to complete a vessel's accounts would make it a slow and perplexing operation. The mode, therefore, that I suggest, would enable us to perform this part of our duty without difficulty, and it would be perfectly in compliance with the new law on the subject; and once a month the exact amount would be drawn from the Treasury.

I am, &c., J. A. FLEMING, *Auditor*.

JESSE HOYT, Esq., *Collector, &c.*

The following is the circular of 13th March, 1839, referred to in preceding letters:

Circular to the collectors of the customs, or persons acting as such.

TREASURY DEPARTMENT,
First Comptroller's office, March 13th, 1839.

Congress having directed, by the 2d section of the General Appropriation act, approved the 3d inst., "that from and after the passage of this act, all moneys paid to any collector of the customs, or to any person acting as such, for unascertained duties, or for duties paid under protest against the rate or amount of duties charged, shall be placed to the credit of the Treasurer of the United States, kept and disposed of as all other moneys paid for duties, if required by law, or by regulations of the Treasury Department, to be placed to the credit of the said Treasurer, kept and disposed of; and shall not be held by the said collector, or person acting as such, to await any ascertainment of duties, or the result of any litigation in relation to the rate or amount of duty legally chargeable and collectable in any case where money is so paid; but whenever it shall be shown to the satisfaction of the Secretary of the Treasury, that in any case of unascertained duties, or duties paid under protest, more money has been paid to the collector, or person acting as such, than the law requires should have been paid, it shall be his duty to draw his warrant upon the Treasurer, in favor of the person or persons entitled to the over-payment, directing the said Treasurer to refund the same out of any money in the Treasury not otherwise appropriated;" it is made the duty of this office to advise you of the manner in which it is proposed that you shall co-operate in carrying it into full effect.

It will deserve your particular attention that the section does not contemplate any change in the existing mode of keeping the public treasure, but merely provides, in relation to that portion of the public revenue collected by you, usually called deposites for unascertained duties, or duties paid under protest, and which may have been previously held in suspense, and not immediately subject to Treasury draft, in consequence of the exact amount of duty not having been ascertained, or the principle of the exaction of duty having been contested, that it shall be carried to the credit of the Treasurer in separate accounts, and kept and

disposed of as all other money is required to be kept and disposed of by law, or by regulation of the Department; and you will perceive that, to obviate all inconvenience or tardiness in settlement that would encroach on the just rights of importers, re-payments on account of either of said descriptions of duty are directed to be made, in case the deposite shall exceed the ascertained duty, or the duty shall be made to appear to have been improperly taken; not, however, as heretofore, by yourself, to be adjusted in your accounts of the customs, but immediately at the Treasury proper.

You will therefore be pleased especially to regard all the instructions you may have received from the Department as still in force, except as they may be changed or modified, or enlarged by those now given, to which it is confidently expected you will frequently recur as having the sanction of law, in order that no degree of variance may be suffered to exist between your acts and their requirements.

I would, however, particularly invite your careful observance of the circular of the 9th of June, 1837, a copy of which I have annexed.

In the measures which I have been led to adopt, I have not been unmindful of the inadequacy of any regulation that the Department might prescribe for the fair execution of the section, unless those more immediately connected with the practice under the system should readily and zealously conform to it, and thus creditably acquit themselves of the high duties they have been called on to discharge; and hence my desire has been, while anxiously looking to the attainment of the end Congress had in view, not unnecessarily to add to your present labors, which I am fully conscious, if from no other reason than the mere extension of commercial enterprise, are hourly increasing.

In this spirit, I have to inform you that it is deemed indispensably requisite that you should open an account special with the Treasurer of the United States, agreeably to the form annexed, A. Having been required heretofore to keep a separate account of this nature, it will not materially increase your labors. In this account you will pass the moneys referred to, as soon as received, to the credit of the Treasurer; and, in order that it may be kept in as simple and clear a form as is consistent with your business operations, I have especially to request that, in making the debit and credit entries, you will distinguish the deposites for duties unascertained from duties paid under protest, and both, from other moneys, to be denominated cash received, or placed opposite to the distinctive heads of receipts; and also designate the kind, number, and amount of each paid draft issued upon you by the Treasurer.

But as you will not be able readily to observe this distinction of moneys in the special account with the Treasurer, or without great inconvenience and difficulty in some cases, adjust the excess of the deposites over the ascertained duties, or the duties to be refunded as having been paid under protest, which are to be so refunded, if at all, in pursuance of a Treasury warrant, and not upon the order of the Department, according to the usage that has so long prevailed, I deem it also

equally indispensable that you should keep separate and distinct accounts of them—the one to be called "the unascertained duty account," and the other the "protested duty account," agreeably to the forms annexed, B and C. In these accounts, according as the case may need, you will enter upon the debit side the deposite made by the importer, which will be balanced by the ascertained duty, and the excess paid back to the importer; or enter on the debit side the amount of duty paid under protest, and balance it by the draft of the Treasury in favor of the importer.

These several accounts being properly kept, will not only enable you at any moment to see the precise condition of the moneys in your hands, or in the account of the Treasurer, but they are in an eminent degree necessary, and will be useful in the proceedings that result from the operations of the section.

And here I have to observe, in regard to the intervention of the Treasury warrant, although no objection is presented to its being issued in every case of a claim for protested duty, which will appear in your quarterly abstracts rendered to the Treasury according to ancient regulations, yet much difficulty and delay would necessarily ensue in case a separate warrant were issued here on settlement with each importer for the excess of his deposite on account of duties to be, after they had been ascertained; for it is believed that, beside the great additional labor thrown on the officers here, for which their present force is not adequate, it would equally have the same effect in the custom-houses, by the making of the petty returns on which the settlement would be based at the Treasury. And it may be safely assumed, that the aggregate of excess, to which the importers would be entitled to claim even for a month's operations, will be exceedingly unimportant in a fiscal point of view.

There are other reasons that might be given, but these are in themselves sufficient. It has, therefore, upon full deliberation, been decided upon as the more proper course, and as a substantial compliance with the section, that you should make exhibits of the sum necessary for the purpose of refunding excess in deposites to importers to the Secretary of the Treasury, monthly, to be examined and countersigned by the naval officer, agreeably to form annexed, D, on which the Secretary will issue his warrant for the same in your favor, as assignee in fact of the respective importers. You will thus be put in funds to meet this class of repayments, and you will take of each importer duplicate receipts, and account quarterly for the same at the Department. The form of the account you are to render to the First Auditor of the Treasury is annexed, E. In this account you will charge yourself with the Treasury warrant, and claim credit for the vouchers produced. This account has no connection, immediate or remote, with your accounts of the customs. In the latter account you are charged with the true ascertained amount of duties; but the former arises, from the Government, out of abundant caution, taking under its control for a time the money of in-

dividuals, mingled with that of the public, for the better security of its own just and legal portion.

But there still remains the other class of re-payments to be considered, that of duties paid under protest. It is not necessary that, with regard to them, you should have any other than a ministerial agency. You are charged with the duties, and, in case they are justly reclaimed, you will get credit in your accounts of the customs for the paid draft in favor of the protesting importer. In these cases it will be proper, whenever a suit is determined against you, to make report to this office of all the facts, and you will give the importer a certificate in the form annexed, F; this certificate will go through examination and settlement here, as in the case of any other claim against the Government, to be paid out of any money in the Treasury not otherwise appropriated.

In closing this instruction, it is my duty respectfully to assure you that its requisitions are expected to be faithfully and punctually executed. This new effort of Congress to throw additional guards around the public money, in a point on which the previous laws were deficient, or had grown into disuse from corrupt combinations, while you are not to consider it as an evidence of their distrust in your integrity and efficiency, must still make you sensitively alive to the importance and urgent necessity of fulfilling its just expectations.

Very respectfully, your obedient servant,

J. N. BARKER, *Comptroller*.

TREASURY DEPARTMENT,

First Comptroller's Office, May 9th, 1839.

SIR: By the circular of the 13th March last, in reference to deposites for unascertained duties, which you were required to pass immediately to the credit of the Treasurer, it was arranged that you should make monthly exhibits of the excess to be refunded to importers, with a view to place you in funds to meet such demands; as it was scarcely to be expected that persons having claims of this kind would long omit presenting them, no special instructions was thought necessary as to the disposition of balances remaining in the hands of a collector. In order, however, to remove any possible difficulty, and to relieve the collectors from any unnecessary responsibility, I have to request that you will give due notice, to all such persons as may appear on your monthly exhibits, of your being provided with funds to repay the excess in deposite; and in the event of any balance still remaining on hand, uncalled for, at the termination of a quarter, as such money cannot be applied to any other purpose than that for which it has been drawn out without being again brought into the Treasury, you will transfer it to the credit of the Treasurer in his special account.

I am, very respectfully, your obedient servant,

(Signed,) J. N. BARKER, *Comptroller*.

COLLECTOR OF THE CUSTOMS, *New York*.

TREASURY DEPARTMENT,
Comptroller's Office, May 15th, 1839.

SIR: Your letters of the 13th instant, in relation to deposites for unascertained duties, is received.

The instructions of the 9th inst., to which you refer, were addressed to the principal ports in consequence of representations from some of the collectors made to the Secretary of the Treasury, and were chiefly intended to relieve collectors from unnecessary responsibility in holding money in their hands not called for by those to whom it was due. I can, therefore, see no objection to your pursuing the course you have adopted, in the refunding the excess of deposites, the United States being secured from risk of loss in the practice.

Very respectfully, your obedient servant,
J. N. BARKER, *Comptroller*.

COLLECTOR OF THE CUSTOMS, *New York*.

CUSTOM HOUSE, NEW YORK,
June 3d, 1839.

SIR: Herewith you will receive a certificate, agreeably to "Form D," prescribed by the circular from the Comptroller of the Treasury, dated March 13, 1839, for excesses of deposites in the month of May, and for which a warrant in my favor is respectfully requested.

I have the honor to be, &c.,
J. HOYT, *Collector*.

To the Hon. LEVI WOODBURY, *Secretary, &c.*

COMPTROLLER'S OFFICE,
23d April, 1841.

SIR: Your letter of the 4th ultimo, addressed to Secretary of Treasury, covering certificates of excesses of deposites paid by you for the month of February, amount to $3,779 07; and also of excess of deposites paid on 1st and 2d March, amount to $545 44, and requesting warrants in your favor, has been referred to this office. In reply, I have to state that you will forward the usual account of these repayments receipted for, and a warrant will be issued in your favor bringing the amount in your accounts of the customs to your credit.

Very respectfully,
W. FORWARD, *Comptroller*.

To JESSE HOYT, ESQ., *late Collector, &c.*

William S. Coe was called and sworn as a witness on the part of defendant, who testified that he was the naval officer of the port of New York during all the time the defendant was collector. On being asked to look at a printed circular from the First Comptroller of the Treasury addressed to naval officers, under date of 15th March, 1839, and say whether he, as naval officer, received the said circular, the witness answered, that he received the same, and acted under it, from the first day of April of that year. The said circular is in the words and figures following:

Circular to naval officers.

TREASURY DEPARTMENT,
First Comptroller's Office, March 15, 1839.

SIR: Earnestly insisting on a prompt and faithful obedience to the instructions emanating from the Department, yet, in relation to that portion of those recently issued, which requires that you should uniformly affix your certificate of their accuracy to the returns made weekly and monthly by the collector to the Secretary of the Treasury, and also examine thoroughly all the business operations of the custom-house, of which returns are to be made with punctuality and exactness, monthly, to this office, in the form annexed, it would seem, from your concurrent representations, that your present clerical force is insufficient to bear the additional labor thrown on your office, and indeed that it is not practicable, in some cases, to discharge the duties of the office, as pressed on your attention by the newly-established regulations, in addition to those existing, without the employment of extra aid.

These representations, as they were received, having been laid before the Secretary, and, upon mature reflection, seeing just ground for them, while, at the same time, he is fully impressed with the importance of your office being constituted, in fact, what the law most clearly contemplated it should be, a check upon the business operations of the custom-house, he has been induced to direct that instructions should be given to the collector to pay, at the rate of two dollars per day for every day they may actually be employed, such additional clerks as it is found, from the estimate presented, absolutely necessary for you to call into service, to enable you to conform to those regulations.

My duty would here cease; but I cannot allow the occasion to pass without once more enjoining upon you to keep in view the instructions you have received; reminding you of the necessity of keeping accounts corresponding with those kept by the collectors, from whom the proper forms may be procured, and of the great reliance the Department must necessarily put in your vigilance for the prevention of any wrong that may be meditated, or the detection and immediate report of it, if any shall appear to have been committed in the business operations at the custom-house.

In the annexed monthly return to be made by you to this office, and which is in no case to be delayed longer than a week after the expiration of the month to which it refers, I must repeat, you are expected to state each source from whence money is received by the collector, and every object for which it is expended by him.

I am, very respectfully, your obedient servant,

J. N. BARKER.

Form of naval officer's monthly report to the First Comptroller of the Treasury.

Port of ———, *Naval Office*, ———, 183 .

This is to certify that, in conformity with the instruction of the Comp-

troller of the Treasury, I have examined the books in the office of the collector for the district of ———, and find that all the accounts required to be have been kept, and the books promptly posted up; and after comparing them with the books kept in my office, further find that the aggregate of the duties or moneys received, or to be received, from impost and tonnage, or from other sources, during the month of ———, agrees with the same for a like period.

The amount of duties on tonnage and impost is estimated at - -	–	–	$9,000
From other sources, viz:			
Bonds previously taken, paid - -	–	$2,000	
Bonds previously having been in suit -	–	1,000	
Hospital money - - -	–	400	
Interest - - - -	–	000	
Fines, penalties, &c. - - -	–	000	
Incidental receipts, such as unclaimed merchandise, storage, &c. - -	–	100	
			3,500
			$12,500
Amount brought forward -	–	–	12,500
Thus accounted for:			
Bonds not due - - - -	–	5,600	
Bonds handed over to district attorney -	–	2,000	
By expenditures, viz:			
Bounties - - - -	$1,000		
Debentures - - - -	1,000		
Custom-house clerks, &c. - -	000		
Marine hospital disbursements - -	500		
Expenses of collection - - -	600		
Appraisements - - - -	100		
Revenue cutters, &c. - - -	000		
Boat contingencies - - -	300		
Incidental expenses - - -	200		
		3,700	
			11,300
And that the cash on hand, inclusive of deposites for unascertained duties, is ascertained to be - - - -	–	–	$1,200

All of which I further certify to be just and true.

——— ———, *Naval Officer*.

The circulars to naval officers of 15th and 26th December, 1838, were also read in evidence by defendant.

Circular to naval officers.

TREASURY DEPARTMENT,
First Comptroller's Office, December 15, 1838.

SIR: There being reason to believe that in some of the ports of the United States there have been omissions on the part of the naval officers in the performance of some of their official duties, deemed by this Department of the highest importance, it has become necessary to direct the earnest attention of the officer holding this responsible situation in the public service, to the laws and the regulations of this Department designating their several duties.

By circular from this office, dated the 18th December, 1789, naval officers were directed to keep impost books and tonnage books, which, as they were explicity advised, would enable them to examine and check the collectors' quarterly accounts of duties and tonnage received by them.

The act of 2d March, 1799, declares that "the naval officer shall receive copies of all manifests and entries, and shall, together with the collector, estimate the duty on all goods, wares, and merchandise subject to duty, (and no duties shall be received without such estimate,) and shall keep a separate record thereof, and shall countersign all permits, clearances, certificates, debentures, and other documents to be granted by the collector; he shall also examine the collector's abstracts of duties and other accounts of receipts, bonds, and expenditure, and if found right shall certify the same."

Had the books designated above been kept, and the quarterly examinations and comparisons been duly made by the naval officer, it is scarcely possible the defalcations in the accounts of the late collector at New York, (S. Swartwout,) could have taken place, or so long escaped detection. It is required by this Department that information be communicated at what ports the impost and tonnage books have not been kept by naval officers, and what portions, if any, of the duties defined in the foregoing quotations from the law have been omitted, and under what authority; at the same time it is urged upon those naval officers, who have not heretofore kept those books of record, to open books of impost and tonnage without delay, and hereafter to furnish, after the most exact scrutiny, all the certificates to the collector's abstracts and accounts called for by the law; any authority heretofore given by this Department dispensing with the performance of any portion of such duties being now superseded.

It is the direction of the Department that, together with the certificate to the accuracy of the monthly returns of the collector, (required by circular from this office addressed to naval officers on the 17th ult.,) the naval officer should at the same time make report whether all the books required to be kept by the collector were fully and promptly posted up.

Subjoined hereto is a list of the books required to be kept by collec-

tors. Estimates of any additional aid necessary to the efficient execution of the duties here enjoined, should be forwarded by naval officers to this Department.

A, Impost book.
B, Tonnage book.
C, Passport and Clearance book.
D, Interest book.
E, Marine Hospital book.
F, Drawback book, foreign merchandise.
G, Drawback book, domestic goods.
H, Bounty book.
I, Bond Account book.
K, Journal for quarterly aggregate entries.
L, "Leger, the accounts in which should be regularly balanced and closed quarter yearly, whereupon a check will be afforded as to the correctness of the returns to be made to the Treasurer.
M, "Day book, particularly for the purpose of entering the cash received and paid away each day, from which book the collector will be enabled to make his weekly or monthly return," as the case may be, to the Secretary of the Treasury.

I am, very respectfully, your obedient servant,
(Signed) J. N. BARKER,
Comptroller.

To Naval officer, New York.

Circular to naval officers.

TREASURY DEPARTMENT,
Comptroller's office, December 26th, 1838.

SIR: With a view of preventing any possible misapprehension on the part of the naval officers in regard to the nature and extent of the examinations to be made by them of the accounts of collectors, as directed in previous circulars from this office, I deem it proper to inform you, that it is expected by this Department that the naval officers will monthly and quarterly examine and compare the books kept by the collector with the books of impost and tonnage required to be kept in their own offices, in order to ascertain how far the bonds and cash in hand agree in the aggregate with the amount of accruing revenue for the month or quarter, as the case may be. The naval officers are likewise requested carefully to examine into the expenditures of the collectors, and see that they are duly vouched for during the like respective periods.

Returns are to be made of the monthly examinations of the receipts and expenditures aforesaid to this office, in the form following:

Port of
Naval office 183 .

This is to certify, that, in conformity to the instructions of the Comptroller of the Treasury, I have examined the books in the office of the collector for the district of New York, after comparing them with the

books of tonnage and impost kept in my office, and find that the aggregate of the duties received or to be received by him for tonnage and impost during the month of agrees with the same for the period aforesaid.

The amount of duties on tonnage and impost is estimated at	$9,000
Thus accounted for:	
By bonds not due	5,000
By bonds handed over to district attorney	1,000
By expenditures duly vouched	1,000
	7,000
And that the cash on hand, inclusive of deposites for unascertained duties, being (so much,) is ascertained to be	2,000
	$9,000

All of which I further certify to be just and true.

A. B., *Naval officer*.

These returns are in no case to be delayed longer than a week after the expiration of the month to which they refer. It is suggested that occasional leisure from other duties may be usefully employed in this service, and will tend to obviate much of the inconvenience in making the return that might otherwise be felt.

You are requested to commence these examinations with the accounts of the collector of the port of New York for the third quarter of the present year, and continue them henceforth monthly and quarterly, as before indicated, until otherwise directed.

I am, respectfully, your obedient servant,

J. N. BARKER,
Comptroller.

Naval officer, New York.

On calling upon the counsel of the United States to produce the returns of the naval officer, made to the comptroller under and in pursuance of said circulars, the same were produced from the first of April, 1839, to the first of January, 1841, and were verified by the witness, as the returns made in pursuance of said circulars.

The witness stated that defendant was very attentive to business while he was in office. Thinks his time was too much employed in other matters to have attended to the accounts of the office. He spent more time than any one else, early and late.

On being cross examined by the counsel of the plaintiffs the witness stated, that he devoted himself to the duties of his office. Previous to circular of 15th March, 1839, we did not examine the accounts current of the collector; we examined in the naval office the quarterly abstracts of duties and the monthly statements, and they corresponded substantially with the accounts in the collector's office; we could not compare the account currents unless we kept corresponding accounts, which we

did not; we only examined the collector's accounts, and could not know any thing of collector's cash transactions till after the 15th March, 1839. By the circular of that date, we had instructions to examine the collector's cash book, and we took it every morning to the naval office, in pursuance of the directions of the Department. After the circular of March, 1839, I compared Mr. Hoyt's quarterly accounts with the impost book, &c., and certified his quarterly accounts. For this purpose we examined the entry book, and the cashier's book. My own books show the receipts and amount of merchandise, and of course the amount of duties chargeable for the merchandise of each vessel. We compare our abstract with the collector's. This check does not exist as to the matters of cash received by the collector. As to anything else our entries are a perfect check. On cross examination, witness says, we can ascertain in the naval office the correctness of the collector's accounts, except as to the cash actually received by him.

Mr. Gray being called by the defendant to state the result of the examination and comparison of said returns with the quarterly accounts of collector, stated that he had kept possession of said returns, and had made up a statement therefrom of the disbursements made by the collector from the first of April, 1839 to the 1st of January, 1841, being a period of 21 months, and that he found the comparative statement of disbursements to be as follows, viz:

Disbursements from collector's quarterly accounts.

Date.	Bounties.	Debentures.	Custom-house clerks, &c.	Marine hospital disbursements.	Expenses of collection.	Appraisements.	Revenue Cutters.	Contingent expenses.
1839.								
2d quarter....	$11,903 73	$136,462 71	.....	$4,023 99	$129,966 72	$25,222 89	$4,946 15	$5,708 08
3d quarter....	35,648 39	110,884 26	.....	4,023 77	112,666 12	25,514 00	6,952 63	5,544 80
4th quarter...	99,040 67	267,144 63	$46,294 75	4,023 11	123,226 53	24,773 63	15,941 36	6,421 52
1840.								
1st quarter ...	93,377 80	187,136 05	.....	4,195 03	103,582 83	21,601 17	10,782 98	3,938 25
2d quarter....	84,939 09	141,566 44	.....	3,986 69	112,709 92	22,057 44	2,054 66	3,900 06
3d quarter....	89,780 49	122,352 98	.....	4,024 57	106,834 50	21,362 32	4,371 43	5,426 62
4th quarter...	47,919 17	99,337 48	.....	4,194 82	99,538 38	20,532 79	6,789 04	7,690 63
	$462,609 34	$1,064,884 55	$46,294 75	$28,471 98	$788,525 00	$161,064 24	$51,838 25	38,629 96
								51,838 25
								161,064 24
								788,525 00
								28,471 98
								46,294 75
								1,064,884 55
								462,609 34
							Total....	$2,642,318 07

Disbursements of collector, as appears from naval office returns.

Date.	Bounties.	Debentures.	Custom-house clerks, &c.	Marine hospital disbursements, &c.	Expenses of collection, &c.	Appraisements, &c.	Revenue Cutters, &c.	Incidental expenses.
1839.								
No. 5, April.	$129 30	$34,706 88	$2,022 83	$3,984 15	$9,343 69	$1,322 72	$90,241 53	$5,449 16
6, May .	11,053 15	47,750 30	36,415 02	.....	10,535 60	7,957 48	8,641 13	17,203 90
7, June .	721 28	54,080 53	9,500 39	.....	83,009 41	6,325 56	42,899 88	21,633 48
	11,903 73	136,537 71	47,938 24	3,984 15	102,888 70	15,605 76	141,782 54	44,286 54
8, July..	25,709 27	38,751 03	8,605 06	3,983 93	21,535 67	2,437 00	14,715 66	24,611 20
9, Aug..	6,952 62	36,298 57	41,875 34	181,695 49	10,431 69	8,039 85	26,591 31	6,323 31
10, Sept..	2,986 50	35,895 86	72,395 70	5,138 91	67,511 41	4,145 60	22,320 67	2,150 00
	35,648 39	110,945 46	122,876 10	190,818 33	39,478 77	14,622 45	63,627 64	33,084 51
11, Oct...	35,415 03	67,899 43	2,075 26	8,467 27	21,192 93	4,803 44	91,012 34	14,145 19
12, Nov..	25,829 82	87,130 10	74,274 81	7,439 90	83,221 67	1,901 25	37,245 61	2,589 32
13, Dec..	37,795 82	112,114 50	9,518 48	7,188 17	46,045 69	5,855 10	12,047 34	2,812 59
	99,040 67	267,144 03	85,868 55	23,095 34	150,460 29	12,559 79	140,305 29	19,547 10
1840.								
14, Jan...	22,186 65	78,359 31	8,979 95	5,402 94	39,677 48	5,369 21	16,784 30	12,884 31
15, Feb..	38,465 05	63,360 79	6,559 31	4,988 52	41,341 49	3,000 00	3,516 00	8,754 09
16, Mar..	45,456 85	33,057 25	58,151 36	8,791 92	20,687 46	8,773 31	5,511 12	6,159 69
	106,108 55	174,777 35	73,690 62	19,183 38	101,706 43	17,142 53	25,811 42	27,798 09
17, April.	19,889 85	51,791 62	35,384 04	8,141 27	25,381 63	2,166 59	14,630 56	2,667 96
18, May .	13,954 29	57,746 32	8,704 61	4,497 74	55,756 47	3,080 49	11,712 32	6,925 63
19, June .	51,094 95	32,028 40	16,289 06	5,862 08	60,481 76	6,606 66	15,116 09	10,337 39
	84,939 09	141,566 34	60,377 71	18,501 09	141,619 86	11,853 74	41,458 97	19,930 98

Disbursements—Continued.

Date.	Bounties.	Debentures.	Custom-house clerks, &c.	Marine hospital disbursements, &c.	Expenses of collection, &c.	Appraisements, &c.	Revenue cutter, &c.	Incidental expenses.
1840.								
20, July..	$2,794 22	$38,997 12	$12,409 99	$5,611 14	$48,545 83	$2,408 30	$3,937 74	$3,984 72
21, Aug..	41,465 93	44,131 89	9,306 27	7,402 78	63,477 48	19,690 72	15,799 49	1,664 73
22, Sept..	45,445 34	39,098 86	9,276 31	8,289 20	66,032 10	7,056 34	4,758 62	1,793 84
	89,705 49	122,227 87	30,992 57	21,303 12	178,055 41	29,155 36	24,495 85	7,443 29
23, Oct...	246 40	39,421 05	7,372 46	4,895 00	41,088 51	36,394 68	4,191 64	1,203 51
24, Nov..	6,187 73	30,795 95	24,572 37	20,000 00	54,007 73	1,817 50	4,553 36	1,278 29
25, Dec..	41,559 54	29,248 88	29,648 70	27,328 22	70,962 39	10,000 00	25,536 98	25,536 98
	47,993 67	99,465 88	61,593 53	52,223 22	166,058 63	48,212 18	34,281 98	28,018 78
	475,339 59	1,052,664 64	483,337 32	329,108 63	940,268 09	149,151 81	471,763 69	180,109 29
								471,763 69
								149,151 81
								940,268 09
								329,108 63
								483,337 32
								1,052,664 64
								475,339 59
							Total....	$4,081,743 06

Making the difference between the disbursements appearing in the naval office returns and the collector's accounts current for the period of 21 months, $1,439,424 99. There are disbursements in the monthly accounts that do not appear by the same name in the quarterly accounts. The monthly accounts are made out without great accuracy as to the name of the items composing them. The object is to furnish the Treasury Department with information of the *amount* as a guide to it in making drafts. In the monthly account an item is named, and an &c. added, which means something else. The difference, I find, arises from my not being able to find corresponding items in all of both accounts.

The same items in the monthly returns enter into the quarterly accounts of the collector; and all the items in the monthly returns should appear in the quarterly account.

They may possibly appear under different heads.

The following documentary evidence was offered and read by defendant, and such part thereof as either party may require is to form a part of the bill of exceptions, viz. the following Treasury circulars:

Circular.

TREASURY DEPARTMENT, *May* 20, 1790.

SIR: An opinion, that it will conduce as well to the public convenience as to that of your office, has induced me to direct that the moneys you may receive, after this letter shall get to hand, be remitted from time to time, and until further orders, to the Bank of New York, there to be passed to the credit of the Treasurer of the United States.

It will be necessary that you obtain from the bank duplicate receipts for all such payments, and that you forward one of those receipts by the earliest opportunity to me.

I am, sir, your obedient servant,

(Signed) A. HAMILTON.

Extract from *circular*, the whole to be found with documents attached to report of Secretary of Treasury, of 5 Sept., 1837, and to which either party has the privilege to refer. (See also 25 Congress, 3 Session, Journ. of Com. of H. R. 324.)

TREASURY DEPARTMENT, *Oct.* 25, 1792.

* * * * *

Those collectors who shall have any of the before mentioned bounties to pay, and who have instructions to make their remittances to any of the banks, are herewith authorized to retain in their hands, out of the moneys which they have, and shall receive, a sum sufficient to answer the purpose.

With great consideration, I am, sir,

Your obedient servant,

A. HAMILTON,

Secretary of the Treasury.

Extract from circular.

TREASURY DEPARTMENT, *August* 20, 1801.

It may be proper here to remind those collectors who pay into banks that the public moneys ought not to be permitted to accumulate in their hands, and that those whose local situation renders it practicable should, at the end of every week, pay in the whole amount of the balance of the week, excepting only such sum as may be absolutely necessary to face the current disbursements of the ensuing week. It is, indeed, very seldom necessary to retain any moneys for that purpose, as the receipts of each week almost universally exceed the disbursements thereof, and the amount payable during the course of each may be always previously ascertained with great precision, except in relation to bounties—the payment of which depends, it is true, on a contingency; but the amount of which never can make any material difference in the estimate. The same principle should, as far as practicable, regulate the payments of those collectors who live at a distance from the bank in which they are directed to pay the amount of their receipts.

* * * * *

I have the honor to be, with consideration, sir,
Your obedient servant,
ALBERT GALLATIN.

BENJAMIN LINCOLN, esq., *Collector, Boston.*

Extract from printed circular on file in New York custom-house (to which either party can refer,) and which was printed by the Treasury Department:

TREASURY DEPARTMENT,
Comptroller's office, May 28, 1822.

SIR: I enclose herewith, for your information and government, a copy of an act of Congress, passed on the 7th instant, which is to go into operation from and after the 30th day of June next, entitled "An act further to establish the compensation of officers of the customs, and to alter certain collection districts, and for other purposes."

* * * * *

"For the purpose of carrying into effect the provisions of the 9th, 10th, 12th, 13th, 16th, and 18th sections of the act, the accompanying forms, marked A, B, C, D, E, F, G, and H have been prepared, of which it may be well to give some cursory explanations."

"A" * * * * *

"B" * * * * *

"C is the form of an account to be rendered quarter yearly of the fees and emoluments, and of the expenses incident to the office."

"D is the form of a general account to be rendered annually, as soon after the 31st of December of each year as practicable, of the fees and emoluments, and of the expenditures within the year, and refers to a case where it is supposed that the nett emoluments exceed the maximum allowed by law, and a surplus is to be accounted for."

"E" * * * * *

"F" * * * * *

470.

"G is the form of an account to be rendered quarter yearly of the fees received in the case of certificates to accompany distilled spirits, wines, and teas, and of the commissions on your disbursements as superintendent of light houses, and as agent for the marine hospital department."

"H is the form of a general account to be rendered annually, as soon after the 31st of December of each year as practicable, of such fees and commissions, and refers to a case where it is supposed that in those different capacities your emoluments exceed the maximum of $400—to which amount such emoluments are restricted by the 18th section of the act."

"C.

"Statement of the salary, fees, and emoluments of G. H., collector of the customs for the district of , received in the quarter ending the day of , and of his actual disbursements for clerk hire, stationary, office rent, fuel, and other expenses incident to the office during said period.

EXPENDED.			RECEIVED.	
For deputy collector and clerk hire, as per abstract and vouchers, herewith marked.	A	$733 44	For salary.....	$50 00
			" fees.....	25 00
			" commissions.....	20 00
For stationary, office rent, fuel, and other expenses incident to the office, after deducting naval officer and surveyor's proportion, as per do. do...	B	45 50		
		$778 92		$95 00

"I, G. H., collector of the customs for the district of , do hereby solemnly, sincerely, and truly swear (or affirm as the case may be) that the above statement exhibits a true and correct account of the expenditures and emoluments of my office for the period stated. So help me God.

"G. H."

"Sworn and subscribed before me, this day of .

"J. L., *Justice of the peace*."

"G.

"Statement of fees received in the case of certificates to accompany distilled spirits, wines, and teas, and of commissions on my disbursements, as superintendent of light houses, and as agent for the marine hospital, in the quarter ending the day of , viz:

"Amount of fees for issuing certificates to accompany distilled spirits, wines, and teas - - - - - $25
"Amount of commissions on light house disbursements - 60
"Amount of commissions on marine hospital disbursements - 55

Total - $140

"Collectors office, district of 182 .

"G. H., *Collector*."

"H.

General statement of fees received in the case of certificates to accompany distilled spirits, wines, and teas, and of commission on my disbursements, as superintendent of light houses, and as agent for the marine hospital department, viz:

"First quarter of the year 182 - - - - $130
"Second ditto - - - - 120
"Third ditto - - - - 140
"Fourth ditto - - - - 100

$490

"Deduct surplus carried to the credit of the United States in their general account of the customs for the fourth quarter of the year 182 - - - - - - 90

"Maximum allowed by law - - - - - $400
"Collectors office, district of 182 .

"G. H., *Collector*."

The following is also an extract from a circular addressed to "Collectors, Naval officers, and surveyors," dated November 14th, 1834.

"The second section of the act of the 27th June last, 'making appropriations for a civil and diplomatic expense of Government for the year 1834, allowing certain compensations to collectors and other officers of customs therein specified, contains the following proviso, to wit:' (here follows the proviso)—

"Upon examining the regulations, as to forms and returns heretofore prescribed by the Department connected with this subject, it is not deemed necessary, at this time, to give any further instructions in addition to these contained in the comptroller's circular, under date of the 28th May, 1822, as it is thought by a strict observance of them on your part a full compliance may be had with the requisition of the law above stated in this particular. Your notice is therefore called to this subject, with a request that due attention may be given to it.

(Signed) "LEVI WOODBURY,

"*Secretary of the Treasury*."

(23d Congress, 1st session, House Report, No. 313, page 27, 28.)

"TREASURY OF THE UNITED STATES, *June 23d*, 1829.

"SIR: In compliance with instructions of the Secretary of the Treasury, under date of the 22d instant, I have the honor to inform you that

a daily list, to commence with the 26th instant, will be transmitted to you by this office of the warrants that may be directed during the day to your institution for payment. It is believed that this measure is calculated to prevent frauds upon the bank; and as a precaution against its falling into improper hands, the list will not be accompanied by any letter or explanatory remark, but will merely contain the number of the warrant, whether on account of the Treasury, War, or Navy Department, the name of the party in whose favor it is drawn, and the amount.

I am, very respectfully, your obedient servant,

JOHN CAMPBELL,
Treasurer of the United States.

Extract of circular instruction to the banks employed as depositories of the public moneys, dated

"TREASURY DEPARTMENT, *May* 28, 1829.

"All public moneys received on or subsequently to the 1st of June, will be placed to the credit of Mr. Campbell, as treasurer. They will be DRAWN for by him in the following manner, and no other:

1. The Secretary of the Treasury will issue his warrant upon the treasurer, directing the payment, which warrant will be countersigned by the comptroller of the Treasury, and recorded by the register, who shall authenticate the record by his signature, and upon a suitable part of the warrant of the treasurer, will give his order directed to the proper bank for the payment of the money.

2. When TRANSFERS are to be made of the public funds from one bank to another, the treasurer will issue a transfer draft upon the bank in which the funds may be at his credit, in favor of the bank to which they are transferred, for the amount required, stating that it is to be placed to his credit in such bank. The draft will be recorded by the register, who will authenticate the record by his signature upon the draft; and it will finally receive the written sanction of the Secretary of the Treasury."

EXTRACT. TREASURY OF THE UNITED STATES,
April 17*th*, 1830.

* * * * * "Your refusal to pay the warrants is considered quite proper. The inconvenience which the parties may have incurred from it is indeed much to be regretted, but a payment without advice would be upon the responsibility of the bank."

EXTRACT. TREASURY OF THE UNITED STATES,
November 25*th*, 1833.

* * * * * * * *

"When disbursements of money are to be made out of the Treasury, the law has pointed out the duties of the treasurer. Such disbursements are to be made alone upon the warrant of the Secretary of the Treas-

ury, countersigned by the comptroller, and recorded and authenticated by the signature of the register; and by the regulations of the Treasury of the 28th of May, 1829, which were also communicated to all the banks in which there were public depositories, the treasurer is required to write his order for the payment of the money upon the warrant. And by another regulation, the treasurer is required to transmit to the bank a daily list of the warrants thus directed during the day to the bank for payment. These regulations have been, and will continue to be, uniformly complied with.

I am, very respectfully, sir, your obedient servant,

JOHN CAMPBELL,
Treasurer of the United States.

Appended to Report of Secretary of Treasury of 5th September, 1837, is the following:

Statement of the number and amount of warrants drawn on the United States Bank and branches, and the other banks which were depositories of the public moneys, during the year ending December 31st, 1834.

Place.	No. of warrants.	Amount.
New York. Utica. Buffalo, &c., &c.	874	$6,275,628 00

"Average about $5000 for each warrant.
Not one for each day in each State.
Not one for each week in some States.
About 4 each day in Washington City.
About 2 each day in New York.
Not over one each day, elsewhere, in any case."

Extract from the circular to Collectors of the Customs. (See 25th Congress, 3d Session, House Doc. 69, page 12.)

"TREASURY DEPARTMENT, *November* 12, 1835.

It appearing by inquiries made from time to time, by collectors of the customs, for information in reference to the discharge of their official duties, that the regulations contained in the circular instructions heretofore issued by the Department have been mislaid or overlooked by some of those officers, it is deemed proper to embody the substance of the most prominent of them into a general circular. In order that more ready reference may be had to them, they are arranged under separate heads.

1st. A punctual transmission of the following accounts and returns is required, to wit:

To the accounting officers, the collector's quarterly account for settlement, within the time required by the 21st section of the Collection act, approved 2d of March, 1799.

To the Secretary of the Treasury are to be transmitted, punctually, a weekly return of moneys received and paid at the custom-house, to bear date on the last day of the week, and to include only the whole receipts and payments for the entire week. The bank certificate for any money deposited to the credit of the treasurer must accompany the return.

* * * * * * * *

14th. Collectors to receive in payment of duties the notes of no banks except such as are in good credit and pay specie promptly for their notes when presented: and to take none except such as the bank in which they are directed to make deposites will agree to pass to the credit of the United States as cash. (March 26, 1834.)

No notes of less denomination than five dollars are to be received at this time; and after the 3d of March, 1836, none under ten dollars, (provided Congress in the mean time should make no new provision on the subject.) (6th April, 1835.)

* * * * * * * *

17th. Collectors are authorized to retain in their hands only such amount of public money as may be sufficient to pay debentures and defray the current expenditures of their districts, and must deposite the excess at the close of each week in bank, to the credit of the Treasurer of the United States.

* * * * * * * *

"It is deemed proper to remark, in conclusion, that, although the foregoing is presumed to contain the substance of the principal and most important circular instructions and official regulations emanating from the office of the Secretary of the Treasury, yet, owing to the imperfect state of its records, occasioned by the late conflagration of the Treasury building, some may have been omitted. It is only necessary, therefore, to add, that due regard will be paid by the collectors to the directions contained in any such in their possession, to which reference has not been made in this circular.

LEVI WOODBURY,
Secretary of the Treasury.

(See 25 Congress, 1 Session, House Doc. No. 2, p. 58.)

Circular to collectors of the customs and receivers of public moneys.

TREASURY DEPARTMENT, *May* 17, 1837.

"SIR: You will receive enclosed the blank form in which the Treasurer of the United States will hereafter issue his drafts in convenient sums for payments to the creditors of the Government, and for advances made, in pursuance of law, to disbursing officers, with the signatures of the treasurer and register written on its face for information as to their handwriting.

"The warrants on which these drafts may be issued will be retained in the possession of the treasurer, and the drafts will be directed for payment, either to a cashier of a bank, a collector of the customs, or a receiver of public moneys, as the convenience of the service may require. For greater safety, notice will be given to the Treasurer, to the bank collector or receiver on whom they shall be drawn, stating the date, number, and amount of each draft drawn on them respectively, and also the name of the person or persons in whose favor they issue.

"If the drafts on the banks be not seasonably discharged on presentment, the collectors and receivers are requested to redeem them by receiving them in payment for duties or public lands; provided, that before they shall be received by any such collector or receiver, a certificate that they have been properly presented to the bank and not paid shall be furnished. This certificate will be given on the back of them, by the cashier of the bank on which they are drawn; or, on his failure to give such certificate, or his signature not being known or verified to the collector and the receiver, the Treasurer of the United States, on a return of the checks to him, and his being convinced, by any evidence, that the bank declines to pay them in a manner satisfactory to the holder, will himself make a certificate thereon, which will justify the above named officers in taking them up in the manner before described.

"The drafts so received by you will immediately be cancelled by a cross with ink on their face, and a hole cut through the centre of them. Retaining a schedule of the numbers and amount of each, you will then transmit them, weekly to the Treasurer of the United States; and the officers by whom they were taken up will, on their receipt by the treasurer, obtain credits in their accounts with the United States, for the amount of such as are correct. You will also return to him, weekly, a statement of the gross amount of checks taken up, and of the gross amount of money on hand.

"The banks on which these checks are drawn, if paying them, will be expected to act in a similar manner as to cancelling and returning them weekly to the treasurer.

LEVI WOODBURY,
Secretary of the Treasury."

"TREASURY DEPARTMENT, *May* 24, 1837.

"*To the President of the United States:*

"SIR: In consequence of the recent suspension of specie payments by most of the banks in which the disbursing officers of the Government made their deposites of public money, the undersigned has deemed it proper to take the opinion of the Attorney General on the effect of that measure upon those deposites; and, in consequence thereof, submits the following recommendation to the President:

"1st. That all those officers be instructed by the several departments to which they belong to make their subsequent deposites in those banks only which pay specie, if such can conveniently be resorted to for that purpose.

"2d. That in the event of there being none such, they are to be instructed to deposite in those banks which are willing to give, and do give, such written obligation as the nearest district attorney of the United States may deem sufficient and safe to secure the return of the deposites punctually, when wanted, in such kind of money as was placed in said banks: and

3d. That the existing deposites of those officers, whenever not now in such banks, and not soon expended, be withdrawn, and placed within them as far as practicable.

"Respectfully, yours,
"LEVI WOODBURY,
"*Secretary of the Treasury.*"

"Approved: M. VAN BUREN, *President.*"

"Let a copy of the above be sent to each department.
"M. VAN BUREN, *President.*"

Circular instructions to Collectors of the Customs and Receivers of the Public Money.

TREASURY DEPARTMENT, *June* 9, 1837.

SIR: Should all the banks in your vicinity, selected as depositories of the public money, have suspended specie payments at any time, so that you can no longer legally deposite in them, as usual, to the credit of the Treasurer, all public moneys received by you, except such sums as may be required to meet the current expenses of your office, the payment of debenture certificates by collectors, &c.; in other words, the sums you would formerly have placed in bank to the credit of the Treasurer of the United States, will, under the present arrangements, be placed to his credit, in a separate account, on the books of your office. They will be drawn for by him in the following manner, and no other.

1st. By the Treasurer's draft on the officer having funds to his credit directing the payment, which draft will be recorded by the register of the Treasury, who will authenticate the record by his signature. A private letter of advice will be transmitted by the Treasurer in each case.

2d. By a transfer draft signed as above, and approved by the signature of the Secretary of the Treasury, for the purpose of transferring funds to some other point where they may be required for the service of the Government.

No deduction whatever is to be made from the moneys placed by you to the credit of the Treasurer, except in one of these two modes, until they can be lodged by you with some legal depository.

On payment of any draft, the party to whom it is paid will receipt it. You will note on it the day of payment; will charge it on the same day to the Treasurer, and will transmit it to him with the return of his account in which it is charged. In charging these payments, it will be proper to enter each draft separately, and to state the number and kind

of draft, whether transfer, or on Treasury, War, or Navy warrants, and the amount.

It is also necessary that the Treasurer's account be closed weekly with the conclusion of Saturday's business, and transcripts thereof forwarded in duplicate; one copy to the Secretary of the Treasury, and one to the Treasurer. When the quarter of the year terminates on any other day of the week, the acount should be closed on the last day of the quarter, leaving for an additional return the transactions from that time to the close of the week, so that neither the receipts nor payments of different quarters be included in one return. Punctuality in transmitting the returns is indispensable.

To produce uniformity in the manner of making the returns of the Treasurer's account, a form is herewith transmitted. For the purpose of binding, it is requested that they be made on paper of nearly the same size. Your monthly returns must be rendered to the Department as heretofore.

When the public money shall have accumulated in your hands to an amount exceeding dollars, you can make a special deposite of the same in your name, for safe-keeping, in the nearest bank in which you have heretofore deposited the public money, and which will receive the same, to be held by it specially subject to the payment of checks or drafts drawn by the Treasurer of the United States on the officer by whom the same has been deposited.

LEVI WOODBURY,
Secretary of the Treasury.

"The above circular was transmitted to the following collectors, and the blank filled up with the sums opposite their respective names, to wit:

John Anderson, Portland, Maine - -	$10,000
David Henshaw, Boston, Massachusetts -	50,000
Samuel Swartwout, New York - -	75,000
James N. Barker, Philadelphia, Pennsylvania	50,000
William Frick, Baltimore, Maryland -	37,500
Conway Whittle, Norfolk, Virginia - -	20,000
James R. Pringle, Charleston, South Carolina	25,000
A. B. Fannin, Savannah, Georgia - -	20,000
James W. Breedlove, New Orleans, Louisiana	30,000
Pierre A. Barker, Buffalo, New York -	7,500
George H. McWhorter, Oswego, New York -	7,500
James Miller, Salem, Massachusetts - -	20,000

N. B. The foregoing circular sent on 21st June, to balance of the collectors, and the blank filled with sum equal to half the penalty in the respective bonds."

(See Report Sec. Treas., December 3, 1838.)

To Collectors and Receivers of public money.

TREASURY DEPARTMENT, *July 14th*, 1838.

Congress having adjourned without making any additional provision

for the security or safe-keeping of the public money, it is obvious that, in the present state of the laws and of the banks, an unusual responsibility devolves upon those who collect the revenues of the General Government. The difficulty in obtaining suitable depositories for it, as well as in transferring or paying it out conveniently, without the aid of that further legislation, the necessity and character of which have been fully explained in public communications from this Department, imposes on all collectors and receivers the duty of extraordinary vigilance and care.

The President expects that exertions corresponding to the occasion will be cheerfully made by every officer, and that no effort will be spared to have all the laws, as well as the regulations and instructions of the Treasury Department scrupulously enforced. Accuracy in your accounts, punctuality in returns, promptness in your deposites and payments, and an entire forbearance to use any part of the public funds for private purposes, will, it is hoped, characterize the whole class of collecting officers hereafter. In the present condition of things, if any departure from such a course should unfortunately occur, it will be much regretted; and, however unpleasant the task, an exemplary and severe notice of the irregularity will become necessary, in order to secure the great public interests involved in the subject. The duty on the part of public officers to abstain from the employment of the public money for private advantage is so apparent, that no excuse whatever for it can be deemed admissible.

Respectfully, yours,
LEVI WOODBURY,
Secretary of the Treasury.

Extract from circular, &c.

TREASURY DEPARTMENT, *May* 1*st*, 1839.

SIR: Many of the collectors of the customs and receivers of public moneys having failed to comply strictly with the requirements of the circular from this Department of the 9th of June, 1837, both as to the form of the returns required, and the periods of transmitting them, I have to call your attention to that circular, and to request that hereafter the instructions it contains may be particularly attended to. A duplicate of the form in which the account with the Treasurer is to be furnished, is herewith transmitted. You will observe that nothing is to be charged to the Treasurer in the return now referred to, except his drafts paid by you, which are to be cancelled and returned to his office as vouchers, with the account in which they are charged; and also any deposites made in banks to the credit of the Treasurer, by direction of the Department. Nothing is to be credited to the Treasurer except the amount of money held by you, subject to his drafts, and the amount so credited is to be reduced only by charges made in one of the two modes above stated, or by special orders of repayment from this Department. You will therefore be careful to hold a sufficient sum in your hands

(not included in the amount to the credit of the Treasurer) to meet the necessary current expenses of your office, &c.

* * * * * * * *

LEVI WOODBURY,
Secretary of the Treasury.

Circular.

(For a convenient reference I have divided this into sections, but without interfering with the words of the document. See 26th Congress, 2d session, House document, No. 87, p. 12.)

Circular.—To each collector, receiver of public money for lands, receiver general, treasurer of the mint at Philadelphia, treasurer of each branch mint, and Treasurer of the United States.

TREASURY DEPARTMENT, *July 9th*, 1840.

(Section 1.) A copy of the "act to provide for the collection, safe-keeping, transfer, and disbursement of the public revenue," is herewith enclosed.

(Section 2.) You will exercise great vigilance in the performance of the new duties it may devolve on you, without any omission of such as have been imposed and are still required by former laws and regulations.

(Section 3.) The new instructions received in respect to the books you are to keep, and the returns you are to make, will be strictly conformed to. Any expenses necessary to be incurred under this act, will be separated from others in your accounts, and cannot be allowed, unless authority is previously obtained, on satisfactory reasons assigned to the Department. It is hoped the expenses will be few, and on the most economical scale.

(Section 4.) As a depositary of the public money standing to the credit of the Treasurer of the United States, you will keep an account current with him, in which you will debit yourself with all sums received on his account, and credit yourself with all payments made by his order, and no other.

(Section 5.) A weekly transcript of this account must be forwarded to the Department, in duplicate, one directed to the Secretary, the other to the Treasurer, which latter must be accompanied by the vouchers for the charges made therein.

(Section 6.) Collectors of customs, designated collectors and receivers of public moneys at land offices, who may act as depositaries of the money collected or received by them only, should credit the Treasurer weekly with the surplus receipts of the week, after reserving sufficient to meet the current expenses of their offices. Moneys once reported to the Treasurer cannot afterwards be used except in compliance with his drafts, or orders, either for transfer or the payment of warrants on the Treasurer, issued under the authority of law.

(Section 7.) The treasurer of the mint, of the branch mint at New Orleans, the four receivers general, and such other depositaries as may

be required to receive on deposite moneys not collected by them as collectors or receivers, should enter to the Treasurer's credit each sum deposited with or transferred to them, specifically setting forth the date of the deposite, name of the party or parties making it, the object for which and the name of the party for whose credit it is made, (which particulars must appear on the weekly transcripts,) and also the kind of funds in which it is made.

(Section 8.) Entries of Treasurer's drafts, when paid, should show the date of payment, number of draft, and number of warrant on which it was issued, or the designation "transfer draft," when of that character. The kind of money used in paying drafts must also be noted on your books, but not stated in the transcripts.

(Section 9.) The principal book necessary to carry out these details, is a leger account current, which will serve also as a cash book; as auxiliary to this, particularly when the transactions are numerous, a day book or blotter should be kept. It will be well, also, to keep a separate register of transfer drafts.

(Section 10.) The account current should be balanced at the close of each week, so as to correspond with the transcripts. They must be balanced at the close of each quarter, but the last weekly transcript of a quarter may be deferred, should the quarter terminate in the middle of a week, so as to embrace the odd days, and the first transcript of a new quarter may also be deferred for a like purpose.

(Section 11.) "You will also keep separate books for your incidental expenses, whether they be made under general instructions, as expenses of collection, or from advances by the Treasury for that purpose; and a book for recording all letters from and to your office as a depositary.

(Section 12.) "Be pleased to understand thoroughly this principle, that all money in your hands to the credit of the Treasurer is, in fact, money in the Treasury of the United States, and cannot be used for any other purpose than the payment of warrants (or the drafts thereon) issued in pursuance of appropriations by Congress; but these moneys may be transferred from one depository to any other depository, by direction of the Secretary of the Treasury, under the authority of the 10th section of the act.

(Section 13.) "Any further or more detailed instructions that may be necessary for any of you concerning the form of keeping these various books and accounts, or any others that may be found necessary, as well as the forms of the several returns to be made of your business, and the form of certificates on receipts to be given to patentees, marshals, and district attorneys, from whom you may be authorized to receive public money in deposite, will be prescribed by the First Comptroller of the Treasury, and communicated to you by some proper officer.

(Section 14.) "The 13th section of the act requires each naval officer and surveyor of each port, where there is a naval officer and surveyor, and the register of each land office, to make a quarterly examination of the books, accounts, returns, and money on hand of the public depository with which he is connected, and to make such examinations as

much more frequently as he may be directed so to do by the Secretary of the Treasury. The 12th section of the act authorizes me to make such examinations, also, by special agents, as occasion may require. You will grant to the surveyor of the port, the naval officer, or the register of the land office, as the case may be, and to such special agents as may be appointed, every facility in your power for making such examinations, and will always keep your money, papers, and books in readiness for it.

(Section 15.) "By the 19th section, provision is made as to the kind of money you may receive. To the requirements in that section you will, in all cases, conform; using great caution to avoid the receipt of money that is counterfeit, or the notes of banks not at par, or not convertible into specie on the spot, or not issued by institutions of high credit. In making payments in the capacity of disbursing agents, you are likewise required, by the second section of the act of Congress, passed April 14, 1836, not to pay out any bank note under twenty dollars, and which is not redeemable in specie, and equivalent to it at the place where offered in payment. It is desirable that the notes received by you should, when acceptable to others in payment, be first paid out; and if, at the close of any quarter, an amount of them remain on hand over the sum of five thousand dollars, they should, for security, be converted into specie, and oftener, if loss is apprehended, or the specie is wanted to meet drafts you are liable to pay in specie.

(Section 16.) "For greater accuracy in receiving coin, it will generally be desirable, in very large sums, to weigh as well as count it; and for convenience and speed in making payments and examinations, to keep it sealed up and marked in bags or boxes of a hundred and a thousand dollars each. It may be well for the examiners to add their seal after their monthly examinations to verify the amounts.

(Section 17.) "The receipt of Treasury notes in all public payments as heretofore provided by Congress, and then to be cancelled and remitted here as required by former instructions, will still be continued, when any debtors offer them in payment.

(Section 18.) "So you will receive in the same way any drafts drawn by the Treasurer on yourself, instead of the useless delay and trouble of counting out the money on such drafts and immediately receiving it back in payment.

(Section 19.) "In no instance will you permit any other than public money to be placed in the chest or vault in which that is kept; but such money belonging to disbursing officers you will safely keep, and return to them when required, under instructions issued by the department to which those officers are attached.

(Section 20.) "By the 23 section of the act, it is made the duty of the Secretary of the Treasury, 'to issue and publish regulations to enforce the speedy presentation of all government drafts for payment at the place where payable, &c.'

(Section 21.) "All of you, except the Treasurer of the United States, will, therefore, at the end of each quarter, make out the list of the drafts

that have been drawn on you by the said Treasurer previous to the beginning of the preceding quarter, and which, by the notices you have received from him, appear to have been outstanding, and not presented. That list you will forward to the Treasurer aforesaid, and afterward refrain from paying the said drafts when presented, until he shall first be consulted, or shall first issue a new instruction for the payment thereof; and to promote the seasonable presentment and settlement of said drafts, they shall be carried by the Treasurer of the United States to a separate suspense account, and, until a new order, be regarded as no longer chargeable on the depository on which they were originally drawn, but be subject to payment, and be made payable there or elsewhere, as found convenient to the Treasurer, on subsequent application to him for that purpose by the holders of said drafts.

(Section 22.) "All other parts of the act relating to your duties will be strictly enforced by you, though not specially referred to in this circular. In cases of doubt, you will apply to the proper officers here for advice.

(Section 23.) "Further instructions, except those to particular classes of officers separately, it is considered unnecessary to give at this time. If you find any of these here given inconvenient in operation, or if you can suggest measures by which the ends of the law can be more easily obtained, I shall be very hapy to hear from you on the subject.

"Respectfully,
LEVY WOODBURY,
Secretary of the Treasury."

The following documentary evidence was offered and read by the defendant, viz:

CUSTOM-HOUSE, *New York*, *April 8th*, 1839.

SIR: I received this day a statement from the Comptroller of the adjustment of my accounts of the second quarter of the year 1838, and to which I have made a rejoinder, that goes by this day's mail. I think I take valid objections to a suspension of three items amounting to over $1,800,000, "not yet covered by warrant." When my accounts go on with indisputable evidence of payments, I want the credit so that only the true balance stands against me; and if items are "not covered by warrant," so that my account can be credited, it is not my fault, and therefore the items should not be kept in suspense beyond the time at which the account is examined. If this is subject to a just exception on my part, I desire that it should be corrected.

Respectfully,
J. HOYT, *Collector*.

To the Hon. LEVY WOODBURY,
Secretary of the Treasury.

CUSTOM-HOUSE, *New York*, *April* 8, 1839.

SIR: I this day received a communication from your office, dated the 5th instant, giving me advice of the adjustment of the accounts from this

office of the second quarter of the year 1838, which communication is in the following words and figures, viz.:

(Here follows letter from Comptroller.)

Against this form of stating my accounts, I beg most respectfully to protest.

The Department charge me with a balance of	$9,697,131 13
My account admits a balance of - - - -	7,824,612 22
Difference,	$1,872,518 91

To make up this I refer particularly to three items, viz:

A deposite in Bank of America, -	$2,700 00
Old issue, Treasury notes, - -	1,856,075 76
New issue, - - - - - -	7,371 78
Making, not yet "covered by warr't,"	$1,866,147 54

Now, I beg to ask, whose fault is this? The $2700 was deposited in the Bank of America on the 16th day of April, 1838, in pursuance of directions from the Secretary, bearing date the 14th of April, as per report at that time transmitted.

The Treasury notes were regularly forwarded monthly, and the receipt of them admitted, and no objection taken to the regularity of the charge for principal and interest in the statement you have forwarded—and why am I not credited? And why is my balance to be increased near two millions of money, when you have the evidence in the Treasury Department of my being entitled to the credit? And why is it, that it is "not covered by warrant," as it ought to be, and the account closed accordingly, and settled as we go along, instead of keeping it open or in suspense?

The uninitiated could never understand accounts kept in this form; and if an investigating committee should choose to stop an examination of my accounts at this point, it would appear that I had charged the Government, in my accounts, which I was not entitled to charge, for three items, - - - - - - $1,866,147 54

The next item I call your attention to is that of - 8,229 94

As to this item, I have to say, that the rule is, to account for money in the quarter in which it is received or paid, and therefore it appears in the third quarter's accounts, which are now in the Auditor's office at Washington—this being the quarter in which the money was received.

The items of $38 75 and $3124 31, making - - 3,163 06

Are not allowed, we suppose, because you have not covered by warrant that which should have been done without any action of mine, on which the charge of commission was predicated.

The next item is four bonds of Goodrich & Rhodes, amounting to - - - - - - 2,387 45

As to this item, we have no knowledge whatever. We have the bonds now in our possession, without any endorsement appearing upon them, and we had no information that they were paid, and, of course, they could not have been brought into our accounts. They are returned in the abstract of bonds in suit.

These several items your statement charges me with, in addition to what I admit to be due, amounting to $1,879,927 99

From which you deduct - -	$500 00	
Which will appear charged in 3d q'r accounts.		
You also deduct - - -	2,229 00	
And a warrant, of which we know nothing,	4,680 08	
		7,409 03
Difference in our statements,		$1,872,518 91

As to the $2229 of Willis & Robinson's bonds, we should have credited the bond account with that sum, if we had received authority to do so; and I suggest, whether you had not better give me authority so to do in a separate letter from the statement.

I now come to the memorandum of errors referred to in your statement. You charge me with a difference of $9 85 on bond No. 2210. On the abstract, we call the interest $22 11. See page 13, of abstract. The bond was paid the 10th of April, and we collected $32 11, and so entered it in our cash book; and, on the 14th of April, the $32 11, was transferred to the Treasurer. You do not state the interest correctly: it is $32 11, instead of $31 96, and the clerk, in transcribing, made the figure "2" instead of "3," so that it was called $22 11, instead of $32 11, as it should have been. We shall note the error in the abstract of the 1st quarter of this year.

The next error charged to us is on bond No. 5536, page 59, of abstract, in the sum of $22 30. This bond was paid on the 13th of June, and the interest of $39 76 was received, and that amount appears on the copy of the abstract we have in this office. At all events, the sum of $39 76 was paid over to the United States on the 16th of June. There may be an error in copying the abstract, but it is right in the copy we have here.

As to the credit of $4 20, for interest on bond No. 6450, we are not entitled to the credit. It was paid May 22, and the interest of $41 26, was collected, which was the true amount of interest due. It appears on the abstract to have been paid the 21st April, whereas it was not paid till 22 May, and that is the only error in the matter. If you alter the date from 21 April to 22 May, it will be right.

Upon the summing up of the whole statement you will perceive I admit only an error of $10, which is to be corrected in a subsequent account; and I have now only to say that I think I raise more legitimate objections to your statement than you can to my accounts.

Very respectfully,

(Signed) J. HOYT, *Collector*.

To J. N. BARKER, Esq., *Comptroller, &c.*

CUSTOM-HOUSE, *New York, May 9th*, 1839.

SIR: I have your letter of the 16th inst., giving the view of the Treasury Department, under the signature of the First Comptroller, of my "account of the customs for the 3d quarter of 1838," in relation to which I beg to repeat the objections I made in my letter of the 8th of April last, concerning the form of stating the accounts of the 2d quarter of the same year.

It is the province of the Department, which is exercised with great freedom, as I will endeavor to show, to object to my accounts; and a similar privilege I claim the right of exercising myself, in regard to the statements from the Department, when, as in the present instance, there is good ground for it. I will now advert to the "adjustment of the 3d quarter by the items, in the order in which they appear in the statement.

1. The three first items are correct. The item of cash on hand, $3,037,206 29, is not correct, and exhibits an unfair statement of the situation of my accounts. We admitted the sum of $89,560 56 to be due the United States, and the frightful difference between this and the sum you call cash in hand ought not to be so stated; and I am sure you can appreciate the feeling I have on the subject, when you reflect that the lives of those, as well as the papers and documents which can prove the correctness of my accounts, are all of a perishable nature, and therefore exposes me to hazards I ought not to run, when it is perfectly in the power of the Department to remedy the evil I complain of.

2. The commissions of $3,499 53, is a consequence that follows the last item referred to.

3. Deposite in Bank of America, $2,700.

4. Treasury notes to amount of $2,044,252 03.

Both of the last items, it is stated, are "not covered by warrant."

The whole of No. 3, and most of No. 4, were in the same condition in the last statement. In reference to which, if I could be informed why they were not covered by warrant, I would take all reasonable ways and means to have it done.

5. "Interest on four bonds of C. W. Goodrich, $2,387 45."

The bonds were paid in New Orleans, and we have had no account of the payment, and no authority to make any entry in relation to them; all which the Department has been apprized of before; and I yet remain without instruction what entry to make. I beg it may be done, that this item may no longer contribute to swell up imaginary errors in the adjustment of my accounts at the Department.

6. "Treasury drafts not yet covered by warrant, $19,980 00."

I have already stated my objections to be found in the phrase "not yet covered by warrant;" but I will add further, that it seems to me an idle ceremony for a public officer to render his accounts to the Department, if there is to be no settlement of them. We take the time (three months) allowed by law to render the accounts, and in the last quarter we overrun five days, and you reminded me of it. You take nearly four months to examine them, and then very coolly tell me that some

two or three millions *is* "not covered by warrant," though they are "covered by vouchers," and therefore I am not entitled to a credit.

You have given us, within the last six months, a perfect litter of circulars in relation to our accounts, and we have furnished them in conformity thereto, and I am entitled to have them settled, according to the legal vouchers rendered, and that, too, as promptly as you require me to render them. Subordinates have their rights as well as superiors, when both are responsible to the same source, and amenable to the same law.

7. I take the following extract from the "Statement."

"The following bills, charged in abstract of disbursements to appraisers, disallowed, they being for the duty of the regular appraisers, and in case of dissatisfaction the merchant has the privilege of choosing others, but at his own expense:

"Smith & Halstead, for appraising woollens - -	$40 00
"Isaac Brown, examining tallow - - - -	50 00
"David S. Brown, examining tallow - - -	50 00
"J. H. Townsend, appraising damaged wheat - -	10 00
"Victor Giroud, estimating French lamps - - -	5 00
	$155 00

This is disallowed for reasons stated, and the facts are assumed to meet the law, instead of the laws being applied to the facts. The collector has a right to appeal from the decision of the appraisers as well as the merchant, and in that case who pays the expense? Not the merchant, but the United States, the party receiving the benefit.

It is a notorious fact, in the knowledge of the commercial world, and to most accountants, besides, that gross frauds had been practised at this port by the importers of woollens. I have been, again and again, directed by the Treasury Department to make use of all exertions to detect those frauds. It has been repeatedly suggested that the standard of value of our appraisers was too low; and, in order to test this, I appealed from the judgment of the appraisers to the knowledge of practical men, skilled in the business—Messrs. Smith & Halstead—to examine the appraisement of the appraisers, and for which I paid them the $40. More than $25,000 of woollens have been seized and condemned by reason of my action in the matter; all which appears, and will appear in the accounts; and, in the face of this, the $40 expenses I have been put to is disallowed.

The next two items embraced in the above extract is $100 paid for examining tallow. I wrote you, on the 18th of April, 1838, the difficulty we had on this subject. I appealed, on this occasion, from the decision of the appraisers, and got certificates from every manufacturer of soap and candles in this city, of any note; the whole of which I sent you, and the receipt of which you acknowledged on the 21st of April, and my action on the question you approved of. The importer called the article "grease," and the appraisers could not tell what it was; and

it was necessary, if it be necessary at all to see that justice is done to the Government, to know what the article was, and therefore I called in the men competent to judge. I suppose there could not have been examined less than 2,000 casks of this article, the last year, in this port. The merchants have often appealed, and paid the expenses themselves. When I have appealed, I have paid the expenses; and there is, therefore, no justice, but an apparent want of wisdom, without any reserve or qualification, because its tendency is to deter a public officer like that of collector from taking any responsibility in the discharge of his duty. But it also invites him to throw no obstacles in the way of the dishonest trader, in practising frauds upon the Government, lest such officer might himself be subject to all expenses incurred by his diligence. But, to be brief, it is penny wise and pound foolish.

The next item is $10, paid to J. H. Townsend for appraising damaged wheat. I will give you the particulars in this case, which are as follows:

On the 13th March, 1838, (before I entered office,) Messrs. Meyer & Hupeden entered a quantity of wheat, which they imported in the galliott Betty, from Bremen. On the 20th March they filed a certificate of damage, and took out an order to appraise it (the damage.) The appraisers returned the damage at 70 per cent., amounting to $3,284. This fact came to my knowledge, when I issued the following order, viz:

"CUSTOM-HOUSE, NEW YORK, *April 5th*, 1838.

"The undersigned orders a re-appraisement, by the principal appraisers of this port, of the damage upon 4,692 bushels of wheat, entered by Messrs. Meyer & Hupeden on the 13th March last. If said wheat has been sold by the importers, so that the same cannot be viewed by the appraisers, they are requested to ascertain the value of sound wheat on the day of said entry, and also the price for which the wheat in question was sold; and, for this purpose, the undersigned refers the appraisers to James Townsend, a produce broker in this city. Notice has been given of this order to the importers of said wheat.

(Signed,) "J. HOYT, *Collector.*"

"To the PRINCIPAL APPRAISERS *of the port of New York.*"

I employed Mr. Townsend, a produce broker, to aid in the appraisement, and to ascertain at what price the wheat was sold; and it turned out that the damage did not exceed 25 per cent., and such was the report finally adopted, and the damage settled thereby, amounting to $1,172, by which a saving was made to the United States of $2,111, and with my vigilance, and the expenditure of $10, this amount was so saved; but it would seem that I am not to be allowed the $10. This is more than preposterous.

The next item is $5, paid to Victor Giroud. As I before stated, it is not to be expected that the appraisers should know the value of every article imported in this district. This would be quite too flattering to this department. When they do not, they seek for information to the

best sources in their power. The French lamps alluded to were a new article, and Mr. Giroud was called on to examine them, not for the merchant, but for the Government; and he was paid accordingly, and his account was certified, as I think, by the appraisers. Subsequently some lamps, imported by the same house, were seized, and they were acquitted by the false oath of a man whom we arrested for forgery on Saturday last, and was bailed by the judge in the sum of $1,500, and has since fled. This is the history of the $5 charge.

8. We come now to a "suspended" item of $273 11, with the following remarks on the statement:

"The following bills of costs suspended, no proof of the disposition of property accompanying them. In case the United States recovered, the defendants were liable for the costs. If otherwise, the court should certify there was reasonable grounds for the suits:

"Wm. Price, brig Dunlap and ship Transit - -	$39 34
"W. C. H. Waddel, do. do. - -	72 85
"Samuel R. Betts, (he is judge, and should be his brother F. J. Betts, clerk,) - - - - -	160 92
	$273 11"

Now, suppose the defendants were liable for costs, and that liability could not be enforced for want of means in defendant to pay, are the officers to lose their costs and disbursements? Certainly not, and therefore this reason fails; and the next reason is, that the judge should certify there was reasonable ground for suit. This reason has no application in such a case. Such a certificate would be extra-judicial, and we have no authority to ask for it, and the judge has no right to give it.

I now state the case from memory, without resort to documents.

The first I knew of the case was seeing it in the newspaper—that is, the ordering notice of monition—the marshal representing that the vessel was seized by Jesse Hoyt, &c., &c. I knew I had done no such thing, and I inquired into it, and found that the seizure was made under one of the slave trade acts, upon the information of some person, whose name I do not now recollect. On an examination into the case by the marshal, district attorney, and perhaps the court, the proof failed, and the case was dismissed. The bills afterwards came to me for payment, and I objected, on the ground that the officers of the customs had no share of forfeiture, and that it was a proceeding under a statute independent of them; and it was, therefore, a matter that the marshal should settle, and keep it in his accounts with the Government, as a criminal proceeding. I was told by the auditor of this office, and by the clerk of the court, that these kind of bills were always paid at this office; and as they were regularly taxed by the judge, or the clerk of the district court, I paid them. This is the history of the case, and I discuss it upon general principles of evidence by which you are to be bound, and upon which accounts are settled between merchant and

merchant, and other individuals who have a proper sense of right and justice, and I do not discuss it upon the particular amount in controversy; and I therefore say, that you have no right to audit the accounts of public officers upon an assumption that all of those officers are dishonest. If you believe this in a particular case, or have reason to suspect it in any case, it is your duty, as a faithful minister of the law, to make known your belief or suspicion to the chief executive, to the end that such public officer should be forthwith removed. In the present case you impugn the integrity of the district attorney, the marshal, and the clerk of the court, all of whom had the character of honest and honorable men, enjoying the confidence of the community, or they would not have held their respective offices. They made out their bills in their official names, and under the responsibility they owed to their oaths of office, and the Government, whose agents they were; and this is a sufficient authority, in my judgment, for you to pass the accounts, certified as they were by a taxing officer having competent authority. You are to pass the accounts upon the consideration of things as they existed when I paid them, without reference to what has since happened.

It is this system of examining accounts of public officers that has brought the Department in such bad odor with the people. So little confidence has this people in the justice of the Department on these subjects, and so little respect have they for its opinion and decisions, that the United States find great difficulty in obtaining the verdict of juries against individuals who have notoriously defrauded the Government, and who are, in fact, extensive defaulters. It is due to the character of the Government to reform this, for this state of things could not exist without some cause; and it will not answer to say that it results from the ignorance or corruption of the people, from the great body of whom jurors are selected.

9. The receipt of John McGrath, &c., overcharged $18.

Upon an examination of our books here this is no overcharge; the amount is correct.

I now come to the deduction on the statement:

1. Willis & Robinson's bonds - -	$2,229 00	
2. Hyde & Gooderich - - -	4,680 08	
		$6,909 08

In relation to this I flattered myself that, after my letter of April 8th on the same items, they would not again be put into a Treasury statement, but that I should have received proper instructions concerning them.

We now come to the "errors" in abstract:

1. The item of interest of - - -	$72 00	
2. (Should be $70) - - - -	65 89	
3. Short credit in addition - - -	100 00	
		$237 89

We admit the errors in copying the abstract; the true amount of interest was collected and passed to the credit of the Government. For

this kind of error we ought to have had return from the naval office when the abstract was examined and certified.

Deduct over credit, $4 96, should be $5.

This also we admit. These errors will be corrected in 1st abstract, 1839. Arnold Aymen's (should be Nicholl & Aymar's) bill of copper you state should be $848 25, when we make it $747 50. Our statement is correct. You will, by reference to the vouchers, see a deduction of some pounds of copper, and the calculation is made on the nett number of pounds.

We come now to a copy of the certificate of the naval officer in the words following:

I certify that the foregoing abstract of bonds paid has been examined in this office and found to be correct, with the following exceptions:

Eight bonds, amounting to $2,826 91, were paid in the third quarter, which bonds arrived at maturity in the second quarter of 1838.

Two bonds, amounting to $914 13, were paid in the third quarter, which arrived at maturity in the fourth quarter, 1838. All of the bonds, amounting to $3,741 04, are not included in this abstract, which were not paid until the fourth quarter of 1838. It is hoped such irregularities will not occur in future.

In relation to this, I will remark in detached sentences:

First. "Eight bonds, amounting to $2,826 91, were paid in the third quarter, which bonds arrived at maturity in the second quarter of 1838."

It is true these bonds did arrive at maturity in the second quarter, 1838, and were returned to the Treasury in the abstract of that quarter, and in their proper places, and were also certified by the naval officer as correct; and this fact he should have known when he certified the abstract of the third quarter; and the First Auditor should have known it when he passed the third quarter.

There are sometimes delays from various causes in the liquidation of bonds, which throws them for collection out of the quarter in which they belong; but the length of time required to prepare the abstract for the Treasury affords an apportunity to bring such bonds into the proper accounts of bonds paid, though the money goes to the credit of the Treasury the day the bond is paid.

Again: Two bonds, amounting [to] $914 13, were paid in the third quarter, which arrived at maturity in the fourth quarter, 1838."

These were two bonds of a person who was about closing a consignment, and he requested the favor to pay them before maturity, which is of rare occurrence, but always allowed when requested; and rather than confuse the accounts, the bonds were held in suspense in all respects, except on the cash book, until the fourth quarter, when the payment of the bonds was recorded in their proper place in the abstract to the Treasury; but in this case, as in the other, the Government had the money the day it was paid.

Further: "There are also six bonds, amounting to $1,166 60, in-

cluded in this abstract, which were not paid until the fourth quarter of 1838."

This is very true; and as the bonds fell due in the third quarter, viz., the 30th September, which was on Sunday, on which day five of the six bonds fell due, and were paid on Monday, the 1st of October, were returned to the Treasury in that quarter, viz., the third quarter, although they were collected as before stated.

This course of preparing abstracts for the Treasury has always been pursued, and it is done to avoid confusion, and preserve, as far as practicable, the regularity of dates.

Where the bond account is so large as at this port, a regular and systematic course of settlement is indispensable to avoid difficulty and confusion, both here and at the Department.

If the naval officer did what the law and his instructions require of him, keep corresponding accounts, and, by his own accounts, examine those of this office, he would better learn the true nature of the business of the custom-house, and the regulations of the Department; but the fact is, his examinations are to this day made from my own records, which he does not comprehend, and it is therefore that he has made a statement which you dignify with the name of "irregularity, which, it is hoped, will not occur in future." Whether the irregularity I have detailed is greater than the irregularity at your office, in reporting eight bonds as not on the proper place on the abstract, when you had reported on the abstract where the bonds ought to be, and in fact were, and declared that abstract to be correct, I will not undertake to decide, though I have a private opinion on the subject.

We come now to the last paragraph of the "Treasury adjustment," in the following words: You have made no return of storage, the cause of which you will please explain."

My explanation is this: No account of this character has been kept in this office since the early part of 1831. It was formerly the practice of the Department to charge cartage and storage on goods sent to the appraiser's store for examination. In that case a storekeeper was appointed and paid by the United States as such by name, who rendered to the collector an account of the same, which the collector, in turn, rendered to the Department. A representation was made to Mr. Secretary Ingham, in the beginning of the winter of 1831, by Messrs. C. H. Russell & Co., and other merchants, on the subject, and they procured from him an order, about the month of March of that year, to the collector, directing him to discontinue any charge for cartage or storage, but that the same should be paid by the United States; and it has accordingly ever since been done, and no account of storage has since been kept on the books of this office, and therefore there were no accounts to render. This, I understand from gentlemen in this office, to be the facts of the case, and the dates I refer to are about correct; but I have not been able, after diligent search, to find the order on file, but you will no doubt find it in the books of the Secretary of the Treasury. I had understood, long since, from the merchants, that such

were the facts, and no doubt you will find them to be so on an examination of the subject.

Since writing the above it is suggested, by one of the gentlemen in this office, that the directions came from the comptroller's office. I cannot find it on that file, however; but I think the correctness of the statement I make will be admitted in the absence of all accounts from this office for the last eight years.

I have now gone through with your statement, and, I must confess, with some feeling, for I should suffer the deepest mortification at any errors of magnitude in my accounts, and especially in any errors in the true principles of accounting. I do not mean to make a charge not sanctioned by law and supported by fact, verified in the right form. All I require is, that my accounts should be fairly examined and criticised upon its just principles.

I wish this letter might be submitted to the first auditor, who first passes upon my accounts.

Very respectfully,

(Signed) J. HOYT, *Collector*.

To J. N. BARKER, esq., *Comptroller, &c.*

TREASURY DEPARTMENT,
April 20th, 1838.

SIR: I am in the receipt of your letter of the 18th instant in regard to your subordinate officers.

I should like to be informed whether you cannot employ some of the most inefficient inspectors in the capacity of clerks.

It may be proper to suggest that the Department does not construe the law as requiring new nominations of old officers, after a change of collector. But it holds, that the officers continue until others are appointed in their stead. It further holds, that the collector is able, and ought to make new nominations in the place of the old ones, where he thinks the public interest requires it. In such case, however, the collector must, according to the circular of the 20th of July, 1829, submit his reasons for the change, though they be assigned confidentially or in person, or otherwise, as may be most convenient and agreeable.

I am, very respectfully, your obedient servant,

LEVI WOODBURY,
Secretary of the Treasury.

JESSE HOYT, esq.,
Collector of the Customs, New York.

TREASURY DEPARTMENT,
April 23d, 1838.

SIR: I have to return you my thanks for the early return made in your letter of the 21st instant, of "imports and exports of specie."

In regard to the inquiry you make, whether the resumption of specie payments on the part of some of the banks in your city will make it necessary for you to change the course of business at the custom-house,

I have to remark, that the Department is not aware that any change is yet necessary. It is hoped, however, that some duties will now be paid in money. Under the former and existing practice, as to duties, they can be paid in the notes of specie-paying banks, when at par in New York, provided the notes are not those of banks which, since the 4th of July, 1836, have issued notes under five dollars, these being prohibited by the 5th section of the "act to regulate the deposites of the public money," approved the 23d of June, 1836.

I am, very respectfully, your obedient servant,

(Signed) "LEVI WOODBURY,
"*Secretary of the Treasury.*"

JESSE HOYT, ESQ.,
Collector of the Customs, New York.

TREASURY DEPARTMENT,
May 2, 1838.

SIR: I have to acknowledge the receipt of your letter of the 30th ult., transmitting your return of moneys received and paid the week preceding.

When the funds on hand at any one time, in money, are larger in amount than you will need, I wish you to apprise us of the excess, and state that it is held subject to the treasurer's draft, in order that the Department may draw for it as occasion may require.

I am, very respectfully, your obedient servant,

LEVI WOODBURY,
Secretary of the Treasury.

JESSE HOYT, ESQ.,
Collector of the Customs, New York.

(Here follow the returns alluded to in the above letter.)

No. 5.—*Return of moneys received and paid at the custom-house, at New York, from the 23d to the 28th April, 1838.*

RECEIVED.		DISBURSED.	
Balance due the United States from last return.....	$12,482 00	Treasury notes taken in payment of duties.....	$320,669 70
Amount received on bonds.....	324,377 57	Amount of bounties paid.....	
" received on bonds having been in suit.....	12,038 62	" debentures paid.....	6,977 81
" received of duties on imports.....	35,169 92	" payments on account of marine hospitals, &c.	
" received of duties on tonnage.....	239 70	" payments on account of collections.....	664 82
" received of hospital money.....	246 90	" payments to custom-house officers.....	
" of sundry receipts not included in other entries..	10,000 00	" revenue cutters and boats, contingencies, &c.	10,895 60
	65 59	" trea'y drafts taken up and returned to treas'r	4,500 00
" of balance due coll'r to be carried to next return.		Balance due United States, to be carried to next return..	50,912 37
Total amount.....	$394,620 30	Total amount.....	$394,620 30

Custom House, New York, Collector's Office, April 28th, 1838.

J. HOYT, *Collector*.

DR. *The Treasurer of the United States in account with Jesse Hoyt, Collector of the Customs for the District of New York.* CR.

DATE.		SPECIE PAYMENTS.	DATE.		DRAFTS.	SPECIE REC'T.
1838.			1838.			
			April 21	By balance this date.....	$12,658 17	
			26	draft No. 1558 on War warrant 7142..	500 00	
			26	" 1560 "	500 00	
			27	" 1454 "	500 00	
			27	" 1553 "	500 00	
			27	" 1562 "	500 00	
			27	" 1563 "	500 00	
			27	" 1564 "	500 00	
			27	" 1565 "	500 00	
			28	" 1555 "	500 00	
					$17,158 17	

April 28, 1838.

J. HOYT, *Collector*.

TREASURY DEPARTMENT, *June 19th*, 1838.

SIR: Yours of the 18th has been received, and I am pleased to find that so large a portion of your receipts consisted of money. The whole amount returned by you, and more if you receive it, will probably be drawn for by the Treasurer in the course of a week.

I addressed a letter to you yesterday asking for an estimate, which I am very desirous to have answered at your earliest convenience.

Permit me to congratulate yourself and fellow-citizens on the speedy return of the Great Western. I am happy to learn that she has brought more specie.

Very respectfully, your obedient servant,

LEVI WOODBURY,
Secretary of the Treasury.

J. HOYT, Esq., *N. Y.*

CUSTOM-HOUSE, NEW YORK, *June 5th*, 1838.

SIR: I received, on the 2d instant, a note from your office, in the following words and figures:

"COLLECTOR, NEW YORK, 30*th May*, 1838.

"Draft No. 3573, for $20,000.

"J. W. OLCOTT."

A draft was presented to-day, dated 30th May, 1838, and numbered 3573, in favor of J. W. Olcott for $16,850, regularly endorsed to Walter Mead, cashier of the Merchants' bank of this city, which I paid, though it did not correspond with the notice from you.

The parties are all good through whose hands it passed, and I thought I ought to pay it rather than have it protested. Will you advise me on the subject, with reference to this case, as well as to others that may occur of a similar nature. Yours, &c.

(Signed) J. HOYT, *Collector.*

To JOHN CAMPBELL, *U. S. Treasurer.*

TREASURY OF THE UNITED STATES,
June 7th, 1838.

J. HOYT, Esq., *Collector, New York:*

SIR: The notice of draft No. 3,573, in favor of J. W. Olcott, was erroneous as to the sum, which should have been $16,850. The warrant was for $20,000, for which two drafts were issued, one for $3,150. The blunder was in taking the amount of the warrant for the amount of the draft on you.

These private notices are intended to guard against fraud in altering our drafts; but as they form no part of the authority to pay, their absence or defect should not prejudice the public credit, unless there be cause to suspect fraud on the face of the drafts.

Very respectfully, your obedient servant,

(Signed) WM. B. RANDOLPH,
Acting Treasurer United States.

TREASURY OF THE UNITED STATES,
June 13*th*, 1838.

To J. HOYT, Esq.:

SIR: Referring to your letter of the 8th June, I am led to understand you as reporting, under date of 11th, $340,763 04 subject to the Treasurer's drafts exclusively, and this in specie or its equivalent, notes of specie-paying banks; but I am not entirely satisfied that I am correct in this conclusion. Whether or no, however, I must beg you to take up the regular mode of reporting the state of the Treasurer's account, as required by the circular of 9th June, 1837, showing the balance to his credit at the commencement and termination of each week, with the additions and deductions during the same time. The account which you are required to keep with this office is precisely such as was formerly kept by a deposite bank to the nett receipts of your office, and not at all blended with your general account of customs. Let your return for this week show the amount to our credit on Monday morning, and the new credits of this week, against which charge all drafts on yourself paid in the time, and carry forward the balance to next return.

You have passed to our credit, and charged amount of drafts paid, $166,166 07, and we have one draft for $5,343 outstanding. It is probable we shall draw heavily on you in a few days, under the impression that you have $340,763 04, to meet our calls.

Very respectfully, &c.,

(Signed) WM. B. RANDOLPH,
Acting Treasurer United States.

CUSTOM-HOUSE, NEW YORK, *June* 15*th*, 1838.

SIR: I have your communication of the 13th instant, in which you state that, by reference to my letter of the 8th instant, you are led to understand me as reporting, under date of 11th instant, $340,763 04, subject to the Treasurer's draft exclusively. I stated in my letter of the 8th, in substance, that the whole amount appearing to the credit of the United States, in the account forwarded weekly, was to be considered as specie, except the Treasury notes uncancelled. In my letter of the 11th I added a note, stating in what the fund of $340,763 04 consisted, viz., specie fund, $325,944 30, and Treasury notes, $14,848 74; by a reference to those two letters, I think you were quite right in not being entirely satisfied that you were correct in the conclusion, "that I had $340,763 04 subject to your drafts exclusively."

The truth is, I was not aware when I wrote the letters referred to, nor, indeed, until I received yours of the 13th this morning, of the existence of the circular of the 9th of June, 1837. When I came into office, I found a set of blank forms for making up the accounts of the office, and I supposed they were correct, and that the accounts I had furnished were in form, or I certainly should endeavor to have made myself better understood. I now learn from Mr. Fleming, the auditor whom I found in the office when I came in, that he has never placed any money, in the language of the circular, "to the credit of the Trea-

surer in a separate account on the books of the office," but that the funds have all been placed to the credit of [the] Treasurer. The accounts have been kept under the circular of 17th May, 1837, and hence I have not, until now, understood the precise meaning of the terms you have used in your letters, "to the Treasurer's drafts exclusively;" and therefore I said, in my letter of the 8th, that the funds I held were subject to order of the proper officers of the Government. This gives somewhat of an enlarged discretion to a subordinate officer, to parcel out the funds in an arbitrary way to suit himself; which, upon general principles, I think ought not to be given. I send you the form of two accounts which I propose to keep hereafter, by which you will see I charge as a "disbursement" the sum I place to the credit of the Treasurer, in separate account, I call No. 1, and I pass it to the credit of the Treasurer in No. 2. If this meets your views I will do it in this form. Without getting back the account I forwarded on the 11th to the Secretary of the Treasury, by which I admitted I held $340,763 04 to the credit of the United States, I cannot place any sum to the separate credit of the Treasurer, as of a time prior to sending that account, or I would make myself liable to account twice for the same sum of money; but I will, in the account I make up on Monday of the week's business ending on Saturday, place the proper sum to the credit of the Treasurer in separate account.

I cannot, however, help "blending" this separate account with the "general account of customs," because I must charge the sum appropriated to your separate account to the account I send weekly to the Secretary of the Treasury. Under the former arrangement, when the collector deposited in bank to the credit of the Treasurer, it was a payment to the United States, and he was discharged by forwarding the proper voucher, and the bank kept the account, and the accounts of the collector were single; but passing in the books of my office to the separate credit of the Treasurer is no discharge to the collector, and the amounts so placed to the separate credit must run through all his accounts of the customs.

The draft of $5,343 has been presented and paid in specie. It came through the Manhattan Co. The receipts have been large this week, and I think I shall be able to place to the credit of the Treasurer, in separate account, on Monday morning next, $500,000, and retain enough to pay the other claims upon this office for return duties, &c.

I am in hopes Congress, before it adjourns, will adopt some measure better suited to the safe-keeping and disbursements of the public moneys, so far as subordinate officers are concerned, than at present prevails; if it does not, the duty will fall upon the Secretary to do so, which, in my judgment, is very desirable to have done.

I am, respectfully, your obedient servant,

(Signed) J. HOYT, *Collector.*

To WM. B. RANDOLPH, Esq.,
Acting Treasurer of the U. S.

CUSTOM-HOUSE, NEW YORK, *June* 26, 1838.

SIR: Your draft No. 3384, on War warrant 1511, in favor of Chas. Thomas, for $10,000, and dated the 21st of June, instant, was this day presented and paid, though no notice of it had been received.

I am, sir, &c.,

(Signed) J. HOYT, *Collector.*

JOHN CAMPBELL, Esq., *Treasurer.*

TREASURY OF THE UNITED STATES,
August 24th, 1838.

To J. HOYT, *Collector:*

SIR: I am instructed by the Secretary of the Treasury to request that you will pay to Messrs. Nevins & Townsend, of New York, the draft described below, "provided they will attach to it an assurance to indemnify the United States in case of any difficulty on account of the irregularity of the endorsements."

No. 3878, June 21st, issued on War warrant No. 1468, for $9900, in favor of Jno. T. Sprague, on the receiver at Danville, Illinois.

Yours, &c.,

(Signed) WM. B. RANDOLPH,
For Treasurer U. S.

CUSTOM-HOUSE, *New York, Oct.* 31, 1838.

SIR: I received this morning your note of drafts for October 27. You notify No. 5758 to 5767 inclusive, for $10,000 each, but in whose favor you do not state. I am charged with the responsibility of paying these drafts, and if I pay to a wrong person I may still be held liable to pay again to the right one, and therefore the importance of knowing in whose favor the drafts are drawn. Will you be so good as to send me the names in whose favor the drafts referred to are drawn.

Respectfully, &c.,

J. HOYT, *Collector.*

JOHN CAMPBELL, Esq., *Treasurer.*

TREASURY OF THE UNITED STATES,
October 31st, 1838.

J. HOYT, Esq., *Collector, New York:*

SIR: It has been represented to this office that draft No. 5208, issued 14th September, 1838, on War warrant No. 2712, for $10,000, in favor of J. K. F. Mansfield, and directed to you for payment, has been lost or miscarried, and application is made for the issue of a duplicate.

If on receipt of this letter said draft remains unpaid by you, you will please certify the fact to this office, and therefore consider the original draft as annulled, and the duplicate only to be paid.

Very respectfully, &c.,

(Signed) WM. B. RANDOLPH,
Ch. Clk. for T. U. S.

TREASURY OF THE UNITED STATES,
October 31*st*, 1838.

J. HOYT, Esq., *Collector:*

SIR: Permit me to say that you give yourself unnecessary trouble in sending us an account of moneys under protest. We have to do only with moneys available for the payment of public creditors.

Very respectfully, &c.,
(Signed) WM. B. RANDOLPH,
Ch. Clk. for Tr. U. S.

CUSTOM-HOUSE, *New York*, *Nov. 2d*, 1838.

SIR: Your letter of the 31st October, suggesting that I was giving myself unnecessary trouble in sending to you an account of moneys received under protest, has been received.

As I understand the law, under which the financial affairs of the Government are to be conducted, it is the "duty of the treasurer to receive and keep the moneys of the United States, and to disburse the same," &c., &c.; and as the moneys I receive under protest may ultimately belong to the Government, I think it but proper that they should be informed from time to time, as they are in other respects, concerning the moneys I receive, of the amount in which they have an interest.

I have written to the Secretary of the Treasury more at large upon this subject.

Respectfully, &c.,
(Signed) J. HOYT, *Collector.*

To the Treasurer of the United States, Washington.

CUSTOM-HOUSE, *New York*, *December 5th*, 1838.

SIR: On the 30th November you gave me notice of drafts No. 6156 for $7,000 00, No. 6157 for $6,907 29.

There was presented to day drafts on War warrant 3710, dated 30th November, No. 6159 for $7,000 00, No. 6160 for $6,907 29.

I paid the latter, presuming they were the drafts intended as the numbers first above stated.

Will you please inform me.

Respectfully, &c.,
(Signed) J. HOYT, *Collector.*

To JOHN CAMPBELL, Esq., *Treasurer, &c.*

CUSTOM-HOUSE, *New York*, *December 24th*, 1838.

SIR: The enclosed notice of drafts came under cover directed to me, but on examining it I have some doubts whether it was not intended for the collector at New Orleans; I therefore return it to you for examination.

Respectfully, &c.,
(Signed) J. HOYT, *Collector.*

To JOHN CAMPBELL, esq., *Treasurer, &c.*

CUSTOM-HOUSE, *New York*, *January 5th*, 1839.

SIR: I transfer this day to your separate credit $140,000 for the receipts of the four business days of this year.

We have commenced a new system of keeping our cash account, and the account of customs in this respect—that is, all deposites of money for unascertained duties formerly were not passed to the credit of the United States till the duties were made up. We now pass, and have, from the first instant, passed the money so deposited to the credit of the United States; when deposited, and after the duties are made up, we have to refund the surplus of the deposite over and above the actual ascertained duty.

To provide for this, we shall keep a larger amount from your separate credit than we have been lately in the habit of doing.

Respectfully, &c.,

(Signed) J. HOYT, *Collector*.

To the Treasurer of the United States, Washington.

TREASURY OF THE UNITED STATES,
January 7th, 1839.

JESSE HOYT, Esq., *Collector:*

SIR: I have your two letters of the 5th inst., and state, in reply, that your letter of the 31st ult. was misunderstood to refer to certain drafts on you which had been sent to New Orleans, and not to the notice of drafts on the collector of New Orleans, which had been misdirected to to you. The error of direction was so evident from the face of the notice that it was not deemed necessary to reply to your letter returning it, and the letter itself was not preserved. The declaration that no letter dated 24th December had been received was made under the misunderstanding above stated in reference to the subject. I am able to enclose now the letter which you desire.

Draft 5605 was drawn on, and has been paid by, the Bank of America, and, of course, must be taken from your outstanding list, as must also No. 4955 for $21,000, 5389 $10,000, and 5704 $250, they having been cancelled or paid elsewhere.

Yours, &c.,

(Signed) WM. B. RANDOLPH,
Ch. Clerk for Tr. U. S.

CUSTOM-HOUSE, *New York*, *Feb. 13th*, 1839.

SIR: I received notice of a draft this morning, numbered 4122, for $1,132 27. A draft now presented by the Bank of America, with the same number, and dated the 11th instant, $5,377 28, which I paid, but I inform you of occurrence that you may correct it on your books.

Respectfully, &c.,

(Signed) J. HOYT, *Collector*.

TO JOHN CAMPBELL, esq., *Treasurer U. S.*

CUSTOM-HOUSE, *New York*, *May* 21*st*, 1839.

SIR: I paid this day your draft No. 8080 for $20,000, dated the 22d April last, in favor of Christopher Andrews, issued on a War warrant, the drawing of which I had not been advised of.

Respectfully, &c.,

(Signed) J. HOYT, *Collector*.

To JOHN CAMPBELL, esq., *Treasurer U. S.*

TREASURY OF THE UNITED STATES,
May 24*th*, 1839.

JESSE HOYT, esq., *Collector, New York:*

SIR: In reply to your letter of the 21st instant, I have to say, that the margin of our draft book has the usual check mark for the transmission of notice of No. 8080 in favor of Ch'r Andrews for $20,000, but I cannot assert that the notice was actually sent.

Yours, &c.,

(Signed) WM. B. RANDOLPH,
Acting Tr. U. S.

CUSTOM-HOUSE, *New York*, *June* 8*th*, 1839.

SIR: I have this day transferred to your separate credit, for the receipts of this week, the sum of $150,000.

This small adornment to your account was quite necessary, for at the close of the business to-day the balance to your credit, before the above transfer, was only $2,521 28, and I have advice of drafts drawn, not yet presented, of $49,483 48.

We have had a very dull month so far.

Respectfully,

(Signed,) J. HOYT, *Collector*.

To JOHN CAMPBELL, *Treasurer, &c.*

CUSTOM-HOUSE, *New York*, *Aug.* 7*th*, 1839.

SIR: I have this day paid a draft on me, dated the 3d August, instant, in favor of Lawrence L. Van Kleeck, for $800, marked 169, on War warrant 174, of which I have not had notice.

Yours, &c.,

(Signed,) J. HOYT, *Collector*.

To WILLIAM SELDEN, Esq.,
Treasurer, U. S., Washington.

CUSTOM-HOUSE, *New York*, *Aug.* 29, 1839.

SIR: Treasury draft No. 5540 on Treasury warrant No. 212, for $408 90, in favor of Henry Lee, dated July 22d, 1839, was not signed by the Treasurer, but was filled up in the handwriting of the clerk in the office, has been paid by me this day.

Yours, respectfully,

(Signed,) J. HOYT, *Collector*.

To the TREASURER *of the United States*.

CUSTOM-HOUSE, *New York*, *Aug.* 30, 1839.

SIR: Treasury draft No. 231 on Treasury warrant 2362, for $500, in favor of W. C. H. Waddell, dated August 27th, 1839, was paid by me this day. I have not been notified of the existence of said draft.

Yours, respectfully,

(Signed,) J. HOYT, *Collector*.

To the TREASURER *of the United States*.

CUSTOM-HOUSE, *New York*, *Sept.* 3, 1839.

SIR: Treasury draft No. 232 on Treasury warrant No. 2364, for $2052 50, in favor of Charles F. Lester, dated August 27th, 1839, was paid by me this day. I have had no advice of the existence of said draft.

Yours, respectfully,

(Signed,) J. HOYT, *Collector*.

WILLIAM SELDEN, Esq.,
Treasurer of the United States.

TREASURY OF THE UNITED STATES,
September 10, 1839.

COLLECTOR OF THE CUSTOMS, *New York*.

SIR: Draft No. 7394, issued 4th March, 1839, on War warrant No. 5012, in favor of C. O. Collins, for $4500, and directed to you for payment, is represented to have been lost or miscarried, and application is made for the issue of a duplicate.

Should said draft still remain unpaid by you on receipt of this letter, you will please certify the fact to this office, and thereafter consider the *original* as annulled, and the duplicate only to be paid.

Very respectfully,

(Signed,) WILLIAM SELDEN,
Treasurer of the United States.

CUSTOM-HOUSE, *New York*, *Sept.* 12, 1839.

SIR: Your letter of the 10th instant, relative to draft No. 7394, issued 4th March, 1839, in favor of C. O. Collins, for $4500, having been lost, is received; and I have to state in reply that said draft has not been paid by me.

Respectfully, &c.,

(Signed,) J. HOYT, *Collector*.

To WILLIAM SELDEN, Esq.,
Treasurer of the United States.

CUSTOM-HOUSE, *New York*, *Sept.* 21, 1839.

SIR: Treasury drafts No. 388 on Treasury warrant No. 2521, in favor of Charles Downing, attorney, for $12,324 50, dated September 19, 1839, and paid by me this day; I have received no notice of the existence of said draft.

Respectfully,

(Signed,) J. HOYT, *Collector*.

To the TREASURER *of the United States*.

TREASURY OF THE UNITED STATES,
September 23, 1839.

JESSE HOYT, Esq., *Collector, New York*.

SIR: The drafts issued on the 18th instant upon War warrants, and directed to you for payment, are No. 628, for $1836; 629, for $2323 90; 631, for $4873; 632, for $7336; 633, for $2000; 652, for $4163 68; and 662, for $300; all of which have the *notice* check-mark on the margin of the draft book.

Those issued on the 19th, are No. 669, for $702 50; 672, for $4972 50; and 673, for $7874 02.

The draft in favor of Col. Downing, for $12,324 50 was made out by myself after the other clerks had left the office, and the notice thereof appended to a list of *War* drafts, for which purpose the envelopes thereof, which had been sealed up, was opened by me. I think, however, from the recollection of a very casual observation, that there must have been more than *three* drafts noted on that list besides Col. Downing's. I will thank you to return the notices of the 18th and 19th, or copies of them, as you may prefer, if not too much trouble.

Very respectfully, &c.,
(Signed,) WILLIAM B. RANDOLPH,
Chief Clerk.

CUSTOM-HOUSE, *New York, Sept.* 25, 1839.

SIR: Your letter of the 23d instant, relative to drafts issued on the 18th and 19th instant, has been received, and in compliance with your request, I now send you the original notices of those dates, numbered 1, 2, and 3.

The notice No. 1 was received on the 20th instant, but those No. 2 and 3 were received Monday morning the 23d instant, at which time your notices, dated the 20th and 21st, were also received.

It seems the draft in favor of Charles Downing, attorney, is noted in a different handwriting from the others, and no doubt you are correct in the explanation given, and the probability is that they were delayed by the mail somewhere.

You will please return the originals.

Respectfully,
(Signed,) J. HOYT, *Collector*.

To WILLIAM SELDEN, Esq., *Treasurer, &c.*

CUSTOM-HOUSE, *New York, Sept.* 28, 1839.

SIR: I do not make any transfer to-day to your separate credit, for the same reason that existed on the 29th June last, which was the Saturday preceding the expiration of the last quarter, Monday being the last day of the present quarter, when it is necessary to transfer the exact balance, which we shall not be able to do before Tuesday, we pay off our people on Monday, and to complete that business, so as to avoid keeping a suspense account for the whole of the next quarter. We may not be able to close the present quarter's account in time on Tues-

day to be able to apprise you by the mail of that day the amount transferred.

Our nett receipts this week, that is, the receipts after deducting the disbursements, are about $260,000, for which you can draw in the same manner as though the amount was actually transferred to your credit.

Very respectfully,

(Signed,) J. HOYT, *Collector.*

WM. SELDEN, Esq., *U. S. Treasurer.*

TREASURY OF THE UNITED STATES,
September 27, 1839.

JESSE HOYT, Esq., *Collector, New York.*

SIR: I return herewith our notices No. 1, 2, and 3, received in your letter of the 25th instant, and am happy to believe there has been unblameable negligence as to them in our office. The notice of War drafts drawn on the 18th, was not made on that day, because from the great number the issues were not completed until near the close of office hours, when there was not sufficient time left to make out all the notices. It was, however, added to and sealed up by myself on the 19th, and put in charge of our principal messenger, who, I am confident, put it in the letter bag that day, so that it ought to have been in your city on Saturday morning.

Very respectfully,

(Signed,) WILLIAM B. RANDOLPH,
Chief Clerk.

CUSTOM-HOUSE, *New York, Oct. 2d,* 1839.

SIR: Enclosed are three notices of drafts, all bearing date the 28th September, and which were received at the time noted on each.

You will perceive that there are duplicate notices for drafts Nos. 758 and 759, and I think it but just that I should notify you of the circumstances as they all bear date the same day, and those that are duplicates are in the same handwriting.

Please return the notices. Very respectfully,

(Signed,) J. HOYT, *Collector.*

To WM. SELDEN, Esq., *Treasurer, &c.*

TREASURY DEPARTMENT, *Oct. 5th,* 1839.

JESSE HOYT, Esq., *Collector, &c.*

SIR: I return herewith the three notices of drafts received in your letter of 2d instant.

Two of them in accordance with our usual custom, one by the clerk charged with the remittance of Treasury and Navy drafts, the other by the clerk charged with the remittance of War drafts.

The notice of the two drafts, No. 758 and No. 759, was made on the 28th, some time after 2 o'clock, because the drafts were then delivered to an agent in waiting, but were not checked on the draft book as that was in other hands making out other drafts. The regular list

could not be prepared until next day, and the two drafts were entered thereon because they had not been checked on the margin of the draft book.

Very respectfully,

(Signed) WM. SELDEN, *U. S. Treasurer.*

CUSTOM-HOUSE, NEW YORK, *October 7th*, 1839.

SIR: Treasury draft No. 439, on Treasury warrant No. 2570, in favor of Richard Smith, assessor, for $5,988 75, dated September 21st, 1839, was this day paid by me. I have not been advised of the existence of said draft.

Respectfully,

(Signed) J. HOYT, *Collector.*

To the TREASURER *of the United States.*

CUSTOM-HOUSE, NEW YORK, *October 8th*, 1839.

SIR: Treasury drafts Nos. 437 and 438, on Treasury warrants 2566 and 2567, for $7,838 42 and $5,000, in favor of Meade Fitzhugh, agent, dated September 26th, 1839, were this day paid by me.

I have not been advised of the existence of said drafts.

Respectfully,

(Signed) J. HOYT, *Collector.*

To WM. SELDEN, Esq., *Treasurer, &c.*

TREASURY OF THE UNITED STATES, *October 9th*, 1839.

JESSE HOYT, Esq., *Collector, New York.*

SIR: The drafts issued upon Treasury warrants, and directed to you on the 26th ultimo, are Nos. 437, Meade Fitzhugh, $7,838 42; 438 same, $5,000; 439, Richard Smith, assignee, $5,988 75.

These all have the notice, check mark in the margin of the draft book, and should have appeared together in the notice of that date. It is possible the latter one was omitted by the draft clerk, though marked by him in the margin.

Very respectfully,

(Signed) WM. SELDEN, *Treasurer U. S.*

CUSTOM-HOUSE, NEW YORK, *October 12th*, 1839.

SIR: Treasury draft No. 138, on Navy warrant 135, for $25,000, in favor of the President of the Bank of America, dated October 10th, 1839, was this day paid by me.

I have not been advised of the existence of said draft.

Yours, respectfully,

(Signed) J. HOYT, *Collector.*

TREASURER *of the United States.*

TREASURY OF THE UNITED STATES, *October 22d*, 1839.

JESSE HOYT, Esq., *Collector, New York.*

SIR: Draft No. 584, issued 12th September, 1839, on War warrant No. 624, in favor of Lieutenant D. Leadbetter, for $3,625, is repre-

sented to have been lost or miscarried, and application is made for the issue of a duplicate.

Should said draft remain unpaid by you on receipt of this letter, you will please certify that fact, and thereafter consider the original annulled, and the duplicate only to be paid.

Very respectfully,

(Signed) WM. SELDEN, *Treasurer U. States.*

CUSTOM-HOUSE, NEW YORK, *November 19th*, 1839.

SIR: Treasury draft No. 778, on Treasury warrant No. 2977, dated October 26, 1839, in favor of Meade Fitzhugh, agent, for $250, was paid by me this day.

Notice of a draft of the same number and date, for $282 77 was received at this office on the 28th October, 1839, which has not yet appeared. Respectfully,

(Signed) J. HOYT, *Collector.*

To WM. SELDEN, Esq., *Treasurer, &c.*

TREASURY OF THE UNITED STATES, *November 22d*, 1839.

JESSE HOYT, Esq., *Collector, New York.*

SIR: Draft No. 778, on Treasury warrant No. 2977, dated October 26, 1839, in favor of Meade Fitzhugh, was for $250, and not $282 77.

The error in the notice was occasioned by taking the amount of draft No. 777.

Very respectfully.

(Signed) WM. SELDEN, *Treasurer U. States.*

CUSTOM-HOUSE, NEW YORK, *December 19th*, 1839.

SIR: Treasury draft No. 1365, on War warrant 1492, dated November 16th, 1839, in favor of Lieutenant R. H. West, 1st dragoons, for $50, was paid by me this day.

I have not been advised of the existence of said draft.

Yours, respectfully,

(Signed) J. HOYT, *Collector.*

TREASURER *of the United States.*

TREASURY OF THE UNITED STATES, *December 21st*, 1839.

JESSE HOYT, Esq., *Collector, New York.*

SIR: In reply to your letter of the 19th instant, I have to inform you that draft No. 1365, in favor of Lieutenant R. H. West, appears by our records to have been drawn on the collector at Baltimore, who was notified accordingly.

Very respectfully,

(Signed) WM. SELDEN, *Treasurer U. States.*

CUSTOM-HOUSE, NEW YORK, *December 25*, 1839.

SIR: Your letter of the 21st instant is received, in reference to draft No. 1365, in favor of Lieutenant R. H. West.

By reference to my return of the 23d instant, you will perceive that the draft was directed to me.

Very respectfully,

(Signed) J. HOYT, *Collector.*

To WM. SELDEN, Esq., *Treasurer U. S.*

TREASURY OF THE UNITED STATES, *February* 19, 1840.

JESSE HOYT, Esq., *Collector, New York.*

SIR: Drafts No. 1485 and 1486, charged in your return of 15th instant, are endorsed by P. J. Bujac, by Peter E. Trevall, attorney. As the accounting officers object to such endorsements without evidence of attorneyship, I will thank you to forward such as may satisfy them.

Very respectfully,

(Signed) WM. B. RANDOLPH,
Acting Treasurer U. S.

CUSTOM-HOUSE, NEW YORK, *February* 28, 1840.

SIR: I have not had the leisure to refer to your letter of the 24th instant till now; and, although it may not especially require an answer, yet I desire that my superiors should be in the possession of my reasons for all my official acts.

I had supposed that, under the circular of the Secretary of the Treasury of the 9th June, 1837, all moneys in the hands of a "sub-treasurer" was, in fact as well as fiction, as much in the Treasury as it formerly was when in any of the deposite banks; and, although newspapers, stump orators, &c., may have repeatedly inquired where the thing called the Treasury was to be found, I imagined that it was all for effect, and that, whether the money was in or out of bank, if it was under the control of the Treasurer, it was the same as if in his manual possession; and therefore I did not expect to hear from the officer, bearing the name of Treasurer of the United States, that moneys in the hands of a collector, to the separate credit of that Treasurer, could not be considered in the Treasury until the collector had "paid them on the Treasurer's drafts, or deposited them in bank to his credit." Here, you will perceive, two distinct propositions are laid down:

1. That when the money is in bank to the credit of the Treasurer, it is considered in the Treasury.

2. That when it is paid out by a collector, on the draft of the Treasurer, it is then also in the Treasury.

I am not going to dispute the last proposition, but only to remark, that I was not aware that the forms of office perverted the substance of things to such an extent. I had supposed that the Treasurer could not draw his draft to pay an appropriation, or a debt of the Government, unless upon money in the Treasury; and that the money I report to him weekly, as standing to his separate credit on my books, was charged to me in his; and that the money I from time to time deposite to his credit in bank, was debited to such bank, and credited to me also in his books, and that in this respect there was no difference between natural

and artificial persons; and that in the one case, as well as the other, the money was equally in the Treasury, according to the understanding of the law makers and law executors. And I also supposed that, when I paid the Treasurer's draft on me, the money went into circulation, and not into the Treasury, but that it was taken out by means of that draft, in satisfaction of some claim upon the Government; otherwise, it might appear on the books of the Treasurer that more claims had been paid than the Treasurer had the means of paying. He must debit somebody or something for the draft he draws on me; and, for all the payments thus made for one week, the time taken for the drafts to get back to you as paid, it would seem there was no money in the Treasury to meet, because it is not considered in the Treasury until it is put in circulation; and the evidence of that fact, in the shape of a receipt on the draft, is returned to his office. But to come to the difficulties you state, they are these:

1. The Treasurer cannot acknowledge to have received into the Treasury as a payment by a collector, the amount of any draft, until he is in possession of such evidence, on the face of the draft or otherwise, as will secure to him a credit with the accounting officers for the payment of the warrant on which the draft was issued.

2. The allowance of credit, then, to a collector for paying money into the Treasury other than his deposites in bank, is dependent upon the allowance of credit to the Treasurer for paying the same money out of the Treasury.

I understand by this, that it is the duty of the collector and the treasurer to satisfy the "accounting officers" that the money is not in the Treasury, in order to prevail upon them to admit that it is. In other words, that when the draft on me is paid, which puts the money in circulation, and they have proof of this fact, then it is to be considered as in the Treasury.

In reference to a supposed inconsistency on my part, in paying drafts after the 14th of October, which you refer to, after having referred to the personal endorsement of Mr. Kane, on a draft in his official favor, I have to say that none of the drafts came under my notice. I do not personally do all the business that is transacted in this office, and necessarily many things escape my observation; but it is, nevertheless, very certain, that an endorsement of a draft drawn in favor of "Col. H. Stanton, Assistant Quarter Master General," by H. Stanton, does not pass the title to that draft to an endorsee; and, therefore, if I paid the draft referred to, I did a very silly thing, and the accounting officers had no right to credit me with the payment. Such is my understanding of the legal rule. But in some cases, where drafts have been receipted for here by responsible banks, I have, from my repugnance to giving trouble, paid the drafts, though not strictly "in rule;" but in the case of Mr. Kane, the draft came here when great distrust prevailed in reference to all business affairs. It came from a recent suspended bank in Baltimore, to a very weak bank here, and it might have so happened,

that the Government would not get what it supposed it had for such draft, and the responsibility might have fallen back upon me.

I will not disguise the fact that I have no respect for the technicalities of the "accounting officers," and no confidence in the obscure and worse than ridiculous system of keeping accounts in the Treasury Department; and hence I have been in a constant war with them, which I do not see any prospect of terminating short of the aid of the "blood hounds."

Very respectfully,

(Signed) J. HOYT, *Collector.*

To WM. B. RANDOLPH, Esq., *Acting Treasurer.*

CUSTOM-HOUSE, *New York, March 12th*, 1840.

SIR: Treasury draft No. 385, issued on Navy warrant No. 370, dated 7 March, 1840, in favor of John R. Livingston, Jr., for $700 was paid by me this day.

I had not been advised of the existence of said draft.

Respectfully,

(Signed) J. HOYT, *Collector.*

To WM. SELDEN, Esq., *Treasurer, &c.*

CUSTOM-HOUSE, *New York, March 28th*, 1840.

SIR: As the quarter terminates on Tuesday the 31st instant, when it is necessary to transfer the exact balance in my hands to close up the accounts for the quarter, we have concluded not to make any transfer till that day.

The receipts over the disbursements for the week are $175,000, which, for all purposes of use for the Department, is the same as though transferred, to which effect I have also notified the Secretary of the Treasury.

Very respectfully, your obedient servant,

(Signed) J. HOYT, *Collector.*

To WM. SELDEN, Esq., *Treasurer, &c.*

CUSTOM-HOUSE, *New York, March 30th*, 1840.

SIR: Notice of Treasury draft No. 1702, in favor of James Donaldson, for $713 55, dated March 28th, 1840, was received this day.

Treasury draft No. 1701, in favor of James Donaldson, for $713 55, dated March 28th, 1840, was paid by me this day, supposing the mistake in the number to have occurred in your office.

Your obedient servant,

(Signed) J. HOYT, *Collector.*

To WM. SELDEN, Esq., *Treasurer, &c.*

CUSTOM-HOUSE, *New York, April 2d*, 1840.

SIR: I returned you yesterday a cancelled draft drawn in favor of Maynaidier Mason, and numbered 2825. I would thank you to send me by return mail, if practicable, a copy of all the writing on the back

of it; and if it would not violate a rule of your office, I would be glad to have a certified copy of the whole draft, endorsements, &c., &c.— There may be a litigation concerning it, as it was surreptitiously taken from the post office, and paid by me to the purloiner of it, who was a clerk in a house here, and who has since absconded with other property of his employer.

As I understand it, I can in no way suffer by it, as the signature of the payee is genuine, and there is no restriction to the negotiation of the draft over the name of Mason.

The clerk of Wyeth, Cripps & Co. forged the name and receipted for the money in this office, which he had authority to do from the nature of his employment. But whether so or not, I think we had a right to pay it, because, if as I suppose, there was nothing in the endorsements to restrict its negotiability. Respectfully,

(Signed) J. HOYT, *Collector*.

To WM. SELDEN, Esq., *Treasurer, &c.*

TREASURY OF THE UNITED STATES, *April 1st*, 1840.

JESSE HOYT, Esq., *Collector of New York*.

SIR: 1701 is the number of the draft issued 28th ult., in favor of James Donaldson, for $713 55.

The mistake pointed out by you in our notice was made by us.

Very respectfully,

(Signed) WM. SELDEN, *Treasurer U. States*.

TREASURY OF THE UNITED STATES, *April 3d*, 1840.

JESSE HOYT, Esq., *Collector, &c.*

SIR: Enclosed you will find a certified copy of the draft No. 2825, in favor of Maynadier Mason, and also of the endorsements thereon, requested in your letter of yesterday.

The endorsement of Mr. Mason being genuine and without assignment, the draft will be admitted as a perfect voucher in the settlement of my accounts; but I am unable to say how far you may be held to look beyond the original payee in taking care of the interests of other parties not claiming under his assignment. This I presume will be a matter between you and the parties in which the Treasury will not be concerned, for as I shall obtain credit for paying the money out of, so will you for paying it into the Treasury.

Very respectfully,

(Signed) WM. SELDEN, *Treasurer, &c.*

TREASURY OF THE UNITED STATES, *April 4th*, 1840.

SIR: Draft No. 2846, issued March 26, 1840, on War warrant No. 627, for $12,646, in favor of S. L. Pitkin, late President of the Farmers & Mechanics' Bank, Hartford, Conn., was in consequence of a requisition from the Pension Bureau before the resignation of Mr. Pitkin, but not then acted on by the Secretary of the Treasury.

I am informed by the Commissioner of Pensions, that Mr. N. H. Pomroy, of said bank, is the present pension agent and successor of Mr. Pitkin, and that he (Mr. Pomroy) will be held accountable for the amount of said draft, which is directed to you.

Under these circumstances, and for the convenience of the service, I have to request that you will pay said draft upon the endorsement of said N. H. Pomroy, agent.

Very respectfully,

(Signed) WM. SELDEN, *Treasurer*.

To J. HOYT, Esq., *Collector*, &c.

CUSTOM-HOUSE, NEW YORK, *April 8th*, 1840.

SIR: Your draft No. 423, issued on Navy warrant No. 410, dated the 3d April instant, in favor of J. R. Livingston, Jr., is in the body of the draft "twenty thousand five hundred dollars," but in figures is $27,500.

On consulting with Mr. Livingston, it is deemed best to pay it for the sum expressed in writing in the body of the draft, say $20,500.

Respectfully, &c.,

(Signed) J. HOYT, *Collector*.

To WM. SELDEN, Esq., *Treasurer*, &c.

CUSTOM-HOUSE, *New York*, *April 10th*, 1840.

SIR: I received this day notice of draft No. 2968, in favor of T. W. Olcott, President, for $18,000.

This makes the amount for which you have noticed me $70,601 95 over the amount to your credit, if my books are right.

My orders are to transfer to your separate credit on Saturday of each week; but I can transfer daily, if that be deemed advisable; but until the fund is to your credit, it involves a question of regularity of business whether you should overdraw the account.

I of course cannot tell at what hour a sight draft is to appear; but you may know, with reference to the point to which you send it, when it would probably reach me, and therefore your account may not, so far as actual payment is concerned, be over, yet the notice of the drawing is an appropriation of the fund, and to this extent there is an irregularity of business.

I would be glad if you would cause the books of your office to be examined, and see if our accounts in this respect correspond. I cannot be too particular in watching the diversified transactions of this office.

Very respectfully,

(Signed) J. HOYT, *Collector*.

To WM. SELDEN, Esq., *Treasurer*, &c.

TREASURY OF THE UNITED STATES,
April 9th, 1840.

JESSE HOYT, Esq., *Collector*, *New York*.

SIR: I am sorry to find that our draft No. 423, in favor of Mr. Livingston, navy agent, should have passed examination in the register's

office without detection of its error. The written amount should have corresponded with the figures, viz., twenty-seven thousand five hundred dollars. You will therefore please carry out the intention by paying the other seven thousand dollars. Very respectfully, &c.,

(Signed) WM. SELDEN, *Treasurer U. States.*

TREASURY OF THE UNITED STATES,
April 11*th*, 1840.

SIR: In reply to your letter of yesterday, I have to inform you that we do not overdraw our credit with you designedly; but I find, upon examination, that we have done so at the present time to the amount of $60,348 57, when our memorandum showed a much larger sum still subject to draft, and the circumstance has happened thus. We balance our accounts, and make general statements, on Monday of every week, except when the close of a quarter divides a week, as did the last.

For convenience sake a memorandum of drafts on you and others is kept and checked with the books and weekly statements; on this is entered the amount reported in your letters at the close of the week, E. E. $175,000 reported in your letter of 28th; but when your return of 31st was received, the whole credit of $222,843 05 was also entered, without noticing that the return embraced the previous week, and therefore included the former sum. The usual statement for this week having been omitted, there was no comparison, and the error passed unnoticed. I enclose a statement now outstanding.

Respectfully,

(Signed) WM. SELDEN, *Treasurer.*

To J. HOYT, Esq., *Collector, &c.*

CUSTOM-HOUSE, NEW YORK,
April 13, 1840.

SIR: I have received your letter of the 11th inst., together with the accompanying statement of drafts outstanding, &c., in which you state the amount overdrawn to be $60,348 57.

On examination of my books I find the following drafts outstanding, and which are omitted in your statement, viz:

1839.		
May 10	No. 4896, favor of Geo. Law, altered from collector, Baltimore - -	$19,406 38
Oct. 17	999, favor of Charles Howard -	1,500 00
Dec. 31	1909, favor of A. A. Massias - -	15,000 00
	To which add amount as stated by you -	60,348 57
		$96,254 94

Very respectfully,

(Signed) J. HOYT, *Collector.*

To WM. SELDEN, Esq., *Treasurer, &c.*

TREASURY OF THE UNITED STATES,
April 14*th*, 1840.

JESSE HOYT, Esq., *Collector, &c.*

SIR: I have your letter of yesterday. Draft No. 4896, $19,406 38, was charged to Manhattan Company, and paid there. The notice thereof to you was an error.

No. 999, $1,500, was charged to, and paid by, the collector at Boston.

No. 1909, $15,000, was charged to, and paid by, the collector at New Orleans.

Very respectfully,
(Signed) WM. SELDEN, *Treasurer*.

CUSTOM-HOUSE, NEW YORK,
May 2*d*, 1840.

SIR: I have this day placed to your credit, in separate account, the sum of $80,000, which is held subject to the drafts of the Treasurer of the United States, in specie or its equivalent.

The following was the state of your account this morning before the transfer:

Drafts outstanding, No. 5220, 1838, Sept.	15	-	$1,000 00
1145, 1839, Dec.	27	-	500 00
2694, 1840, March	13	-	96 00
3041, 1840, April	17	-	300 00
3140, 1840,	22	-	10,000 00
3149, 1840,	23	-	8,000 00
3157, 1840,	24	-	6,500 00
3165, 1840,	24	-	3,740 00
461, 1846,	28	-	34,000 00
	30, 5 drafts		61,715 85
			$125,851 85
Balance to your credit 25th April -		$308,075 96	
Less amount paid this week - -		232,600 00	
			74,475 96
			$50,375 89

I am, &c.,
(Signed) J. HOYT, *Collector*.
To WM. SELDEN, Esq., *Treasurer, &c.*

TREASURY OF THE UNITED STATES,
July 28*th*, 1840.

JESSE HOYT, Esq., *Collector*, &c.

SIR: The endorsements of the following drafts, charged in your return of 25th inst., are informal, viz:

No. 2776, $173 74, in favor of Messrs. Edwards, Stoddard & Co., endorsed Edwards, Stoddard & Co., by attorney, T. Denny.

No. 2782, $36 49, in favor of John Gravillon & Son, endorsed John Gravillon & Co., by Mark Fiena, Gourd & Co., attorney for.

Please forward some evidence of authority in these cases.

Very respectfully,

(Signed) WM. SELDEN, *Treasurer*, &c.

CUSTOM-HOUSE, NEW YORK,
July 30*th*, 1840.

SIR: I have your letter of the 28th inst. relative to the endorsements of two drafts, one drawn in favor of Messrs. Edwards, Stoddard & Co., and the other in favor of John Gravillon & Co. In relation to the former I send you, on the other side, a certificate that the proper power of attorney is on file in this office. As to that of Messrs. J. Gravillon & Co., Mr. Gravillon retired from the house, leaving the Co. to continue the business, and which was done under the firm of Malizieux, Gourd & Co.

We made the certificate on which the draft was founded in the name of the firm as it was when the entry was made, and duties paid. Malezieux, Gourd & Co., sign as attorneys under a general authority published in the papers to wind up the concerns of Gravillon & Co.

Very respectfully,

(Signed) J. HOYT, *Collector*.

To WM. SELDEN, Esq., *Treasurer*, &c.

(Copy.)

CUSTOM-HOUSE, NEW YORK,
Collector's Office, *July* 30*th*, 1840.

The undersigned hereby certifies that there is on file in this office a power of attorney executed by Charles Stoddard, Henry Edwards, James W. Kemball, doing business at Boston under the firm of Edwards & Stoddard & Co., to Thomas Denny, of the city of New York, dated the 30th day of July, 1838, the execution of which is duly acknowledged before the proper officers for taking such acknowledgment.

(Signed) J. HOYT, *Collector*.

TREASURY OF THE UNITED STATES,
August 4*th*, 1840.

JESSE HOYT, Esq., *Collector*, &c.

SIR: The auditor objects to the endorsement of draft No. 2858 for $134 65, charged in your return of 1st instant, without proper explanation:

"Gibson, Sons & Co., pr. pro. J. Dykes."

Is Mr. Dykes one of the company, or does he act under power of attorney on file with you?

Very respectfully,

(Signed) WM. SELDEN, *Treasurer U. S.*

CUSTOM-HOUSE, NEW YORK,
August 6th, 1840.

SIR: I have your letter of the 4th instant in relation to the payment of draft No. 2858, for $134 65, in favor of Gibson, Sons & Co. In answer to which I have to say, that at the time of the presentation of the draft, and even now, all the members of the firm were out of town. Mr. Dykes is a clerk of the house, to whom they had given a letter of attorney, somewhat informal, it is true, to lodge with the Merchants' Bank of this city. It was deemed sufficient by the bank, and, as the amount was small, I did not think it liberal to object to it, and, therefore, I consented to pay the draft.

On the other side is a copy of the power lodged with the bank, and it refers to any "drafts or checks," which would include the draft in question.

Very respectfully, &c.,

(Signed) J. HOYT, *Collector*.

To WM. SELDEN, Esq., *Treasurer U. States*.

O. J. CAMMAN, Esq., *Cashier*. (Copy.)

DEAR SIR: We hereby authorize and empower Mr. John Dykes to endorse for us any drafts or checks requiring the signature of our firm, during the temporary absence of its several members.

Yours, respectfully, &c.,

(Signed) GIBSON, SONS & Co.

NEW YORK, *July 15th*, 1840.

CUSTOM-HOUSE, NEW YORK, *August 8th*, 1840.

SIR: I enclose you the original notice of draft No. 4428, in favor of T. P. Andrews, for $10,000. A draft answering the number was presented to-day for $20,000, endorsed by Mr. Andrews, in favor of D. Thompson, esq., cashier of Bank of America, and endorsed by "Geo. Newbold, president."

The auditor has been so particular of late in regard to endorsements, and there being such a material discrepancy in the amounts, I informed Mr. Newbold that I preferred not paying it till I heard from you. Be pleased to correct the notice if it is wrong.

Mr. Thompson, the endorser, is out of town, and may not be back on the receipt of your answer to this; and, if so, will the endorsement of Mr. Newbold, without any especial authority from Mr. Thompson, be deemed sufficient.

Your early answer would be desirable.

Very respectfully,

(Signed) J. HOYT, *Collector*.

To WM. SELDEN, Esq., *Treasurer, &c.*

TREASURER'S OFFICE, *August 7th*, 1840.

SIR: A draft No. 2957, dated 3d instant, in favor of John F. Butterworth for $208, should have been $228. You will please pay Mr. Butterworth the twenty dollars; the draft, when returned, will be corrected to correspond. Respectfully,

(Signed) WM. SELDEN, *Tr. U. States*.

To JESSE HOYT, Esq., *Collector, &c.*

TREASURY OF THE U. STATES, *August 10th*, 1840.

JESSE HOYT, Esq., *Collector, New York*.

SIR: I enclose a correct notice of the draft, in favor of Paymaster T. P. Andrews, in lieu of the one returned in your letter of 8th inst.

Mistakes of this sort will sometimes occur with all our care and attention, especially when the operations of the day are numerous.

When a draft is in favor of a bank, or its president or cashier, the endorsement of either officer is deemed sufficient by the auditor.

Very respectfully, &c.,

(Signed) WM. SELDEN, *Treasurer U. States*.

The defendant then offered in evidence, the following letters from him to the first comptroller of the following dates:

December 12, 1842.
Do. 22, do
January 17, 1843.
Do. 25, do.
Do. 28, do.

The counsel for plaintiffs asked the object in offering said letters, and being informed by the counsel of the defendant that all of said letters related to the naval office returns, under the circular of 15 March, 1839, except the one of 25 January; and the object was to show that there were no copies of such returns on file in the naval office, and that the defendant had sought explanation from the comptroller in the letters referred to regarding such returns, and had received no answers to such letters, and that said letter of 25th January, related to items in the last transcript, and in regard to which the defendant had also sought information from the comptroller, and had received no reply.

The counsel of the plaintiffs objected to the reading of said letters, and the court decided the objection was well taken, as the defendant was not bound to go to trial without getting the explanation, and the court would not have compelled him to, and it was therefore a waiver of his rights; whereupon the counsel of the defendant except to such decision.

And the defendant also offered and read in evidence the following correspondence:

TREASURY DEPARTMENT, *March* 21, 1839.

SIR: I have received your letter of the 18th instant, with that of Mr. Fleming enclosed.

From the explanations given, I am inclined to concur in your opinion that the convenience of your establishment, as well as the merchants, may be best promoted by continuing to receive payment of duties at the custom-house, at least until further evidence of experience shall indicate the propriety of a change.

As to the deposite of the balances of public money in your hands daily or weekly, in the selected bank, and putting drafts on that which you seem to regard as important, under existing circumstances, for your own security, the subject is under consideration, and you will be advised of the result in a few days, if practicable. In the mean time, I shall be glad to be favored with such further views and suggestions on this point as may occur to you as important in coming to a judicious decision upon this practical, and, in some views, important question.

I am, &c.,

LEVI WOODBURY,
Secretary of the Treasury.

J. HOYT, Esq., *Collector, &c.*

TREASURY DEPARTMENT, *Oct.* 3, 1839.

SIR: The first auditor has reported to me that your accounts for the second quarter of 1839 have not been received by him, I beg you will, on the receipt of this letter, inform me the causes, if any, which has delayed the rendering of your accounts of the customs beyond the period allowed by law, and of the day on which they may be expected by the auditor.

Very respectfully, your obedient servant,

J. N. BARKER, *Comptroller*.

JESSE HOYT, Esq., *Collector at New York*.

CUSTOM-HOUSE, NEW YORK, *Oct.* 5, 1839.

SIR: I have your letter of the 3d inst., in which you say, that "the first auditor has reported to me (you) that your (my) accounts for the second quarter of 1839, have not yet been received by him;" and you add as follows, "I beg you will, on the receipt of this letter, inform me, (you) the causes, if any, which has delayed the rendering of your accounts of the customs beyond the period allowed by law, and the day on which they may be expected by the auditor." In answer, I have to say, I am much pleased with this evidence of promptness on the part of the Treasury Department in calling for the accounts which were barely due, and it leads me to hope that I may soon expect to have some report of my emolument account for the year 1838, which was forwarded to the first auditor on the 31st day of January last, and the receipt of which he admitted by letter, dated on the 4th of February, which makes it a little over eight months since they have been in his office.

The law on the subject of my furnishing the accounts of the customs is this, viz., that I am once every three months to furnish such accounts, and oftener, if required. I have not been required to furnish them

oftener; and the former practice of this office was to furnish them every four months; in consequence of the great increase of business since the passage of the law in 1799, allowing only three months to furnish the accounts of the transactions of any one quarter.

The accounts of the second quarter ought to have been mailed here, strictly speaking, on the 1st day of October, and would then in the course of mail reach the auditor's office on the morning of the 3d of October, but if he had deemed it consistent with a punctual discharge of his official duties to have allowed, according to commercial usage in many instances, three days grace, he would not have reported me to you as in default in this respect until the morning of the 5th of October.

The accounts were sent by mail on the 4th instant, and but for the delay in the naval office in the examination of them, they would have been sent two or three days sooner. I have had occasion to complain several times to you of this delay. They take our books into that office, and examine by our books, instead of keeping those of their own, by which to test the accuracy of ours. This is one cause of the delay of two days; and another is a want of room to do our business. We cannot put in service any additional clerks for want of room to place desks.

Yours, respectfully,

J. HOYT, *Collector*.

J. N. BARKER, Esq., *Comptroller*.

TREASURY DEPARTMENT, *Oct.* 11, 1839.

SIR: Yours of the 9th instant, as to the apprehended suspension of specie payments in Philadelphia, if not in New York, has been received.

Your apprehensions as to Philadelphia have already been verified. It may therefore be expedient to enclose to you a copy of a letter received on the occasion from the collector there, with a copy of my reply—both are annexed. All which it may be necessary now to add to the suggestions contained in them is, that in proportion as the port of New York exceeds others in the great amount of its business, will be the difficulties and responsibilities of the crisis there.

I am fully aware of your disposition and ability to meet them with fearlessness, and wish that, in making suggestions for relief or for any change in existing regulations, applicable to this emergency, you will fully possess yourself, first, with the views of the law officer of the district, and of the most intelligent among those who are to be affected by any new measures.

It is hardly necessary to repeat the assurances contained in my letter to Gov. Wolf, of the determination of this Department to lend all proper co-operation with promptitude and sincere wishes to mitigate the embarrassments of the community, as far as practicable, under the existing laws.

Respectfully, &c.,

LEVI WOODBURY,
Secretary of the Treasury.

J. HOYT, Esq., *Collector*.

(Copy.) TREASURY DEPARTMENT, *Oct.* 11, 1839.

SIR: Yours of the 9th instant, containing the disagreeable intelligence of the suspension of specie payments by the Philadelphia banks, has been received.

I trust that you will find no great difficulty in collecting the bonds at the custom house, and in hiring some good safe or vault near, if you have not one already in the public buildings.

In respect to the debentures, I should think that in a spirit of accommodation among the merchants most of them could be arranged in the payment of duties. What cannot be thus discharged can be paid by you from funds on hand; and I will endeavor to supply you with means to liquidate, from time to time, on being apprized of the amount.

In respect to the drafts drawn on the funds now in your possession, it is hoped the holders of them will be satisfied to receive such as are at command; and that if a part of them should be in bank notes, which they refuse to accept, or your deposite agent refuses to convert into specie, you will be able to obtain specie on them of the institutions which issue them. Your suggestions as to the kind of currency to be received hereafter are correct, except that there are other circulars besides those alluded to, and that you can still receive the notes of sound specie paying banks, as well as unpaid drafts of the Treasurer on other officers or on banks. Under these circumstances, and in conformity with these details, every effort will be exerted here to sustain all collectors in the faithful discharge of their duties in so trying a crisis, and at the same time no measure will be omitted to render the execution of the laws, either by the collectors or this Department, as lenient and free from embarrassment to the merchant and others, as is consistent with their provisions and with official obligations. Believing that similar feelings and views are cherished by yourself, I anticipate much less difficulty on this occasion than has happened in some former emergencies of a character not very dissimilar. Respectfully, yours,

LEVI WOODBURY, *Secretary of the Treasury.*

Hon. GEORGE WOLF, *Collector at Philadelphia.*

TREASURY DEPARTMENT, *Comptroller's office, October 28th,* 1839.

SIR: In reply to your letter of the 25th instant, I give you below a statement of the differences in your accounts of official emoluments for the year 1838:

Balance claimed per your account - - - - -		$33,109 60
Deduct commissions short credited, you have credited $15,975 74 instead of $17,127 08	$1,151 34	
Your own compensation overcharged, you have charged for the whole year instead of from the 29th of March - - -	1,063 84	
		2,215 18
		$30,894 42

Very respectfully, your obedient servant,

J. N. BARKER, *Comptroller.*

JESSE HOYT, Esq., *Collector at New York.*

CUSTOM-HOUSE, NEW YORK,
November 4, 1839.

SIR: I received in due course your letter of the 28th ult., in relation to my emolument account for the year 1838.

I have not yet had leisure to investigate fully the matter so as to make a suitable reply; and the object of this is to say, lest I might be prejudiced by my silence, that I do not admit, as at present advised, the correctness of the conclusion you have come to.

Respectfully, &c.,

(Signed) J. HOYT, *Collector*.

J. N. BARKER, *Comptroller*, &c.

CUSTOM-HOUSE, NEW YORK,
November 14*th*, 1839.

SIR: I have your letter of October 28th, giving a statement of the differences in my account of official emoluments for the year 1838. In reply to which I have to admit, that the item of $1,151 34 is correctly stated by you. In reference to the item of compensation overcharged, as you suppose, amounting to $1,063 84, I have to remark that this arises from a difference of construction of the law applicable to the case.

The charge I made arose from what I had understood to be the rule of the Department, sanctioned by a decision of the circuit court of the United States in the first circuit, wherein the United States were plaintiffs, and Pearce and others were defendants, reported in the 2d volume of Sumner's Reports, page 567, which case, or the laws applicable to the question, I had not carefully examined till the receipt of your letter before referred to, but which I have since examined, and came to the conclusion that I am at all events entitled to charge for the whole year of 1838, though I did not enter upon the duties of the office till the 29th of March of that year. My reasons for arriving to that conclusion are the following:

1. The second section of the Compensation act of the 2d March, 1799, (latter clause,) fixes a termination of the year for the purposes herein referred to, by enjoining that "all collectors, &c., shall keep accurate accounts of all fees and official emoluments received by them, &c., &c., and transmit annually within forty days after the last day of December, an account," &c., &c.; and inasmuch as this provision establishes the termination of the year to be on the last day of December, it makes the commencement to be on the 1st day of January.

2. There is no other division or partition of the year, so far as compensation is concerned, than that which arises from the fact of compensation being limited by the amount of emoluments received by the collector from the time he may be in office, in any one year expiring on the last day of December; and therefore it follows, that if he is in office one or eleven months of the year, terminating as before stated, if the emoluments of office amount to the supposed limitation of the salary of the whole year, the salary must be allowed.

3. This is the result of the opinion of Mr. Justice Story in the case referred to, for the reason that it makes no difference, whether as in that case the collector went out of office in July, or went into office in the same month. The learned judge, who stated in the case referred to that "the collector's year began on the day of his appointment and ended with the same day of the succeeding year," wholly overlooked in this respect the provision of the act of 1799 before referred to, which is conclusive as to the time when the yearly salary is to end, for the reason that this salary comes from the "official emoluments" which are to be ascertained at that period, or in forty days thereafter.

4. From the 29th day of March, the day I entered upon the duties of the office, to the last day of December, it must be admitted that the "official emoluments amounted to more than the sum charged in my accounts as my salary, after deducting all charges applicable to the emoluments, and therefore there exists no right to make any deduction from my accounts in this respect. On this proposition I could refer, if it was necessary, to what items under the act of 1802 are deemed necessary expenses incident to the office.

But I admit the account referred to was made out upon a misapprehension of the laws, and of course my legal rights; and if you will have the goodness to return it to me, I will cause it to be corrected.

By that account you will perceive that I have applied to the use of the United States the "fees" which the law allows to the collector, whereas it is only "the emoluments" of the office which are to be applied to the use of the United States. I will explain myself thus:

1. The Compensation act of 1799 allows to the collector certain fees of office, as well as certain emoluments in the shape of commission, and a manifest and palpable distinction is made between the two, and which distinction is recognised by Mr. Justice Story in the case before refered to, wherein he says, "The former statue (act of 1799) provides for the payment to the collectors of the customs of *certain fees and emoluments* for their own use, the *fees* to arise from certain specified official acts and papers, and the *emoluments* to arise from certain specified per centage, for all moneys received by them on account of duties on goods imported, and on the tonnage of ships and vessels."

2d. This same distinction is recognised in other acts, and very prominently so by the act of 2d March, 1831, entitled "an act to regulate the foreign and coasting trade in the northern, northeastern, and northwestern frontiers of the United States, and for other purposes," the 4th section of which gives the sense of Congress on this question, by referring in terms to "fees, emoluments, salary, and commissions," and therefore, up to this late day, recognises the distinction between fees and emoluments; and though the act last referred to does not relate to this district, yet, as it is a part of the same general system, it is entitled to as much weight and consideration, on arriving at the just interpretation of other laws in *pari materia*, as though it was made especially applicable to the district of New York.

3. I cannot find any law, nor do I believe there is any, that deprives

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the collector of this district of the "fees" allowed to him by the Compensation act of 1799. It is true there are various acts limiting the compensation and salary of the collector arising from "emoluments;" the latter acts do not take from the collector the "fees" referred to.

4. I think there is no law in force assessing any charge or incumbrance upon, or any abatement from, these "fees," for the following reasons:

1. The act of 31st July, 1789, allowed "fees" and per centage to the collector, &c., and it charged upon those fees "necessary expenses" of stationary and rent of an office.

2. The last act is repealed by the act of 4th of August, 1790, but the 53d section of the latter act makes a similar provision as to fees and per centage as the former act, and provides that the naval officer shall pay from the fees one-third of the expenses of stationary and rent of an office.

We come now to the first Compensation act of the officers of the customs, passed the 3d March, 1797, chap. 63, which also recognises the distinction between commissions and fees. The first section provides in lieu of commissions heretofore allowed, &c.

The fourth section of the same act allows fees on exportation, and charges the surveyor with the proportion of the expenses of stationary and printing.

5. We have, then, the act of 2d March, 1799, chap. 128, which repeals the act of 4th August, 1790, and leaves no provision for compensating collectors, except the Compensation act of 1797, which charges on that compensation the stationary and printing.

6. But on the same 2d March, 1799, we have the Compensation act of that day, which I have before referred to, and which I contend repeals the act of 1797, and leaves the fees of office, and emoluments, to collectors for their own use, and which not, in any manner, rightfully interfered with till the passage of the act of 1802, which provides that the collector shall be limited to $5000 a year for his "emoluments," after deducting therefrom the expenditures incident to his office.

After a diligent search, I am not able to find any act of Congress taking away from the collectors the "fees" allowed by the act of 1799, nor can I find any act charging any thing upon these fees, and hence I conclude they of right belong to him.

If I am in error in this respect, I should be most happy to be corrected, but until then I must beg permission to be allowed to correct my account before referred to. I am induced to go into this discussion now, as it is very probable that Congress may legislate at the next session on this subject, when it will be proper for it to declare whether I have rightfully interpreted its meaning. That I have given the subject a strict legal interpretation I have no doubt, unless I have omitted in my searches to find the act under which the Department seems to have been heretofore governed.

Very respectfully,

J. HOYT, *Collector*.

To J. N. BARKER, esq., *Comptroller*.

TREASURY DEPARTMENT,
First Comptroller's office, November 19, 1839.

SIR: Your letter of the 14th inst., in regard to the settlement of your additional emolument account, is received.

The account rendered by you formed the basis of the Treasury settlement, and therefore, being thus incorporated with it, cannot, consistently with the rules established for the preservation of accounts, be returned to you.

If you think it erroneous, or that it needs correction for the assertion of the principles contained in your letter, I will cause a certified copy to be furnished, with any notes made thereon in the accounting offices, although it seems to me that your object can as well be accomplished by rendering a supplemental account.

Respectfully, &c.,
J. N. BARKER, *Comptroller*.

To J. HOYT, esq., *Collector*.

Extract of letter from first comptroller of the Treasury to Collector Hoyt, dated February 8, 1840.

"The Department has decided against your claim to a 'moiety of the duties' charged in your account of fines, penalties, and forfeitures, and the duties thus erroneously charged, as well in the preceding quarter, will be debited to you in your accounts for the third quarter now in the course of adjustment in the office of the first auditor."

Respectfully,
J. M. BURKE, *Acting Comptroller*.

To JESSE HOYT, Esq., *Collector, &c.*

NEW YORK, *April 15th*, 1841.

SIR: I understood, some time since, that there would be a change in the incumbent of the first comptroller's office, but I have not seen any such change announced, but in consequence of the expectation I prepared the enclosed letter to send to him, which will explain itself. As my accounts are so soon to be completed, it occurs to me, under such circumstances, that it would not be improper to send the letter through you, to be laid before the new comptroller as soon as he shall enter upon the duties of the office. Frankness requires me also to assign another reason, which is the indulgence of a hope that you might find a leisure moment to peruse, and, if so, my confidence in your judgment, in the respects referred to in that letter, is such, that I cannot but entertain the belief that you, as the head of the Department, would interfere to relieve the subject from the embarrassment which now hangs over it. It is but just to say, that since my correspondence with Mr. Comptroller Barker on the question I found the case of Mr. Lane against the United States, (6 Peters' Reports,) referred to in the letter, which I cannot but consider as very decisive of the views I have always entertained of the question. If I am right in this respect I very respectfully submit whether I ought not to have the benefit of those views, notwithstanding the

action of others adverse to what I deem the true construction of the law.

You will notice the enclosed letter does not name the day it purports to have been written; from the nature of the case you will perceive that I could not fill in the day.

Respectfully,

J. HOYT, *late Collector*.

To the Hon. THOMAS EWING, *Secretary of the Treasury*.

NEW YORK, *April* , 1841.

SIR: It is a matter of record in your office that I have a controversy with the United States in relation to my account of fines, penalties, and forfeitures, for the following items, viz:

4th q'r, 1838,	Sands, T. & Co.	$527 75		
	D. Hadden & Co.	175 00		
	C. W. Dayton	1,129 96		
			$1,632	71
1st q'r, 1838,	H. Jessup		358	61
2d " "	J. Bottomly	$2,870 00		
	Lachaise & Fouche	3,285 00		
		1,723 20		
		1,291 80		
			9,170	00
3d " "	C. H. Harshall		336	99
			$11,498	31

One half of which sum was paid into the Treasury as forfeiture, but it has been decided by your predecessor in office that the whole should have been paid in as duties, and a suit has been commenced to attempt to carry that decision into effect. I am exceedingly anxious to bring my controversy with the Government to as narrow a point as possible, and being fully impressed with the conviction that the decision of the Department is erroneous, I thought there could be no impropriety in submitting the question to your consideration. It lies within so small a compass I think it will not require much of your time to review it. It arises under the construction to be given to the 89th and 91st sections of the act of 2d March, 1799. That section gives the privilege to the claimant of goods under seizure to have possession of them, by giving a bond or stipulation in court for the appraised value of the goods, and producing a certificate signed by the collector and naval officer that the duties are paid, the same as though they had been legally entered.

It was decided by the First Auditor and confirmed by your predecessor in office, as follows:

1. That the *duties* thus paid belonged wholly to the United States.

2. That the appraisement must be upon value here, and that consequently the duties formed no part of the forfeiture. It is contended by me as the seizing officer:

1. That there is no authority of law to appraise goods upon any value but that which existed at the place of exportation, and that if the goods had been legally entered the appraisement would have been upon the basis of the value at such place.

2. That the rights of the United States could not be enlarged, or those of the seizing officers abridged by the act of bonding, and that such officers were entitled upon the condemnation of the goods to one moiety of the proceeds thereof.

3. That in case of bonding, in point of law, these proceeds were liquidated before condemnation or sale, by placing a substitute for the goods in the possession of the court and the officers of Government, which substitute was:

1. The bond for the appraised value at the place of exportation.
2. The amount paid under the name of duties, as evidenced by the certificate of the collector and the naval officer, which latter item formed a part of the forfeiture, as much as the bond or stipulation given in court, for the plain reason that it was a portion of the value of the *res* taken from the possession of the seizing officer by order of the court.
3. That the amount paid under the name of duties, as evidenced by the certificate before referred to, if left in the hands of the collector to abide the issue of the litigation respecting the goods, is but an execution in part of the 69th section of the act of 1799, which provides that the goods seized "shall be put into and remain in the custody of the collector," &c., &c.

These are, briefly, the points raised, and which are, to some extent, elucidated by my letters to your office under date of 23d December, 1839, and 29th August, 1840, to which I beg leave to refer. In the latter of which you will perceive that the district judge in this district has decided the question as to the rule in appraising. I will now state some authorities, and arguments from them, which I omitted to state to your predecessor in office, and which I think are quite decisive of the *of the* law applicable to the case, and might have changed his views upon the subject if they had been submitted to him.

I state the proposition that duties as such do not accrue upon goods which are forfeited.

It was held in the case of McLane *vs.* The United States, 6 Peters, 404, where Mr. Justice Story who spoke for the court said, at page 427, that "in point of law, no duties as such can legally accrue upon the importation of prohibited goods."

The reason of the rule applies equally strong to goods forfeited for any cause whatever, because,

1. A forfeiture *in rem* attaches the moment the offence is committed. 3 Wheaton, 264.

2. Goods may be forfeited in the United States, under the 14th section of the act of 14th July, 1832, "if the package be made up with intent to evade or defraud the revenue," before they are even shipped

for this country. The seizure relates back to the time of offence committed, which would be a virtual prohibition of importation.

3. Under such circumstances, the goods cannot be said to be legally imported, and hence duties do not accrue, unless the Government choose to waive the forfeiture, and take the duties.

The highest evidence we can have that the goods were forfeited, is the fact of condemnation, when the Government takes its share of the forfeiture; but to take the duties and thereby impliedly admit the regularity of importation, and then take the forfeiture which is more than an implied accusation of illegality of that importation, seems to partake of an inconsistency which a just legislation would seek rather to avoid than confirm; and hence, I conclude, such could not be the true interpretation of the law.

One of the conditions of bonding goods under the 89th section of the act of 1799, is, that the claimant shall produce to the court a certificate of the collector and naval officer, "that the duties have been paid or secured, in like manner as if goods, &c., had been legally entered." (I have stated in another place what I understand this to mean, and I now quote this section for another purpose.)

In the case of McLane *vs.* The United States, before cited, the question was as to the legal effect of the remission of the Secretary of the Treasury, under the act of 2d January, 1813, which gave the power of remission "upon the cost and charges that have arisen or may arise, being paid, and on payment of the duties which would have been payable by law on such goods, &c., *if legally imported*. The similarity of phraseology in the two sections, viz: "legally entered," and "legally imported," is to be noticed in connexion with the remark of the then attorney general, (now chief justice,) at page 420 of the case referred to, where he says, "the question is whether the legal duties are a a part of the forfeiture contemplated by the act of 2d March, 1799, sections 89, 91."

The court decided the *legal duties* were a part of the forfeiture, and if so under the one section, they are equally so under the other. But in this remark, I borrow the words "legal duties from the attorney general; while I, at the same time, contend that there can be no such thing as legal duties" on goods which are forfeited before duties could accrue, or before they were paid into the Treasury.

In all the seizures alluded to, the rule I have before stated was adopted in the appraisement of the goods, and this is in conformity to the practice which has always prevailed in this district, and none of the officers of the Government, executive or judicial, ever supposed it was erroneous until suggested by the first auditor; and I believe I am perfectly safe in saying that they do not now believe it to be wrong.

In matters of account with the United States, the judgment or decision of the first comptroller, whether lawyer or layman, is conclusive in the first instance, and I am not aware that any law offices of the Government, by which I mean an educated lawyer, has passed upon the question.

Under the views I entertain and have presented of the case, I cannot but believe that I violate no principle of decorum to yourself or your predecessor in calling your attention to the subject; but if you should be of a different opinion, I will, on a suggestion to that effect, withdraw the letter.

Respectfully,

J. HOYT, *Collector*.

To the FIRST COMPTROLLER
Of the Treasury, Washington.

TREASURY DEPARTMENT,
Comptroller's Office, Sept. 15th, 1825.

SIR: From the proceedings of court in the case of the *United States* vs. *The British schooner Patriot and cargo*, in which a bond was given for the appraised value, amounting to $17,839 58, and bonds for the duties, amounting to $4,459 89, it appears that the letter was directed to be endorsed as a credit on the former, leaving the claimant in the decree of condemnation to pay the sum of $13,379 69, which, with the duties secured, satisfied the bond for the appraised value.

From the accounts rendered by Collector Mallory, respecting the distribution of the forfeitures in this case, it also appears that only one moiety of the sum of $13,379 69, was distributed among the officers of the customs; whereas it is alleged that the claimants paid that sum, together with the duty bonds, amounting in the whole to $17,839 58. If you shall be satisfied, therefore, that the said duty bonds are actually paid by the claimants to the collector, the officers of the customs are entitled to a moiety thereof, say $2,229 94, which you will be pleased to distribute accordingly, to those entitled under the law, as from the manner of the application of the duties by direction of the court, they are to be considered as constituting a part of the value of the goods forfeited.

For the purpose of carrying these instructions into effect, it will be proper that you debit the United States in your general account current of the customs with the sum of $2,229 94, as duties refunded, and state an account of fines, penalties, and forfeitures, which you will credit with a like amount, as part of the proceeds of a forfeiture refunded, which had been accounted for as duties collected, when, according to the proceedings of the court in the case, they constituted a part of the forfeiture.

The debits in this account will consist of the payments to the different officers entitled under the law to the portion of the forfeiture.

In making these entries, you will please to refer to this letter by date, as your authority for so doing.

It is proper to add that, as the case of forfeiture in question occurred during the time that the late Mr. Larkin Smith was collector of the district, his estate is entitled to the collector's proportion of the same now authorized to be distributed; but as he is indebted to the United States in a larger amount, instead of paying his legal representatives that portion, you will be pleased to deposite the amount in the Branch Bank of the United States at Norfolk, to the credit of the Treasurer of the

United States, as a payment on account of Collector Smith, taking duplicate receipts from the cashier, one of which is to accompany your account of fines, penalties, and forfeitures, as a voucher for the charge of that collector's portion, the other charges to be supported by the receipts of the respective officers, or their legal representatives, who may be entitled to receive their portion of the forfeiture herein referred to.

Respectfully, JOSEPH ANDERSON, *Comptroller*.

JAMES JOHNSON, Esq.

TREASURY DEPARTMENT,

Comptroller's Office, *May* 12*th*, 1841.

SIR: Herewith I enclose the late Comptroller's letter of the 1st September, 1840, upon the adjustment of your accounts of the customs for the 1st quarter of 1840, which has been found among the papers of the late chief clerk, by whom it was overlooked, and consequently never sent.

Very respectfully, your obedient servant,

JAMES LARNED, *Acting Comptroller*.

To. JESSE HOYT, Esq.,
Late Collector, &c., New York.

George A. Brown, being again called by defendant, testified that he had examined the interest account on revenue bonds for the three first days defendant was in office, and there were no less than eighteen errors for those days, the amount of which was $49 62 against Mr. Hoyt. His attention was called to it from the fact of discovering pencil marks on the cash book.

The counsel of the United States then called, and swore as a witness on their part, Oswald M. McDaniel, who testified that he was a clerk in the cashier's office of the custom-house when Mr. Hoyt went into office, and remained as such clerk till the month of March, 1839, when he was removed by Mr. Hoyt, on complaint of Mr. Waters and Mr. Bleecker. He has since been restored by Mr. Curtis. He signed, as did Mr. Ralph, his associate in the cashier's office, various receipts in the names of merchants for discounts allowed. He used to take the money from the drawer and put it into papers, and mark the name of the owners upon it, and keep it till the owners should call for it. He is not certain that all did call, but he don't think he kept any of it. He first signed these receipts under Mr. Phillips' instructions, because the merchant had left the custom-house without doing so, and it was necessary to have the receipt of the merchant to keep the accounts straight. There was a quarter's salary due me, and Mr. Hoyt insisted that the amount that appeared to be deficient to the merchants should be deducted from the salary, and the witness consented to do so, as the amount was small.

On being cross examined by the defendant, the witness said he could not say that he signed the particular receipts in question by directions of Mr. Phillips, but he had done so when the practice first commenced. When witness was in cashier's office, and received cash duties, he did

what is called "checked" the permits, that is to say, he put his initials upon them as evidence of the duty having been paid, which was an authority to the collector or a deputy to sign the permits, without which signing the merchant could not get his goods. When the duty was secured by bond, the bond clerk checked the permit, and when it was paid in cash, it was checked by the person attached to the cashier's office who had received the money. Witness never checked a permit, if he had not received the money. Witness was shown two permits, of which the following are copies:

Port of New York.—To the Storekeeper of the port.

Arrived 23d April, (time of arrival of vessel.)

W. A. S. (initials of entry clerk.)

We certify, that Charles Cliffton has paid, or secured to be paid, the duties on merchandise contained in the following packages, in conformity to the entry thereof of this date; which merchandise was imported in the ship George Washington, Holdridge, master, from Liverpool. Permission is accordingly hereby given to deliver the same, viz:

D 26, one truss cloths and cassimeres.

M. D. (initials of cashier's clerk.)

CUSTOM-HOUSE, *July* 21, 1838.

J. I. MUMFORD, *Deputy Collector.*

GEO. W. COE, *Deputy Naval Officer.*

W. C. D. (initials of order clerk.)

CUSTOM-HOUSE, NEW YORK,

Collector's Office, 26th July, 1838.

The storekeeper of the port will deliver the following examined packages, viz:

C 16, one bale Woollens.

[A] 251, one bale Woollens.

Imported by Charles Clifton, in the ship Virginia, master, from Liverpool.

J. I. MUMFORD, *Deputy Collector.*

W. C. D. (initials of order clerk.) M. D. (initials of cashier's clerk.)

The money received on one of the cases, amounting to $125, by mistake is not entered in the book; the other was. Witness said his initials are on both, and he had no doubt he received the duty on both, for he never checked a permit unless he had received the duty.

John S. Tiffany, produced and sworn as a witness in behalf of defendant, testified that he was a clerk in the cashier's office of the custom-house from March, 1839, to a period some months after Mr. Hoyt went out of office, and he knows the routine of business in cashier's office. When the excesses of deposites for unascertained duties were paid to the merchant by the cashier, in behalf of the collector, they were not charged on the cash book, or any other book in the office, to the United States. When the deposite was made with the cashier for such duties,

the whole amount was entered on the cash book, and was paid into the Treasury the same as other moneys; and the receipt to the merchant for such deposite was signed by the person in the cashier's office who happened to receive the money. He knows that, when the excesses were refunded, they were not charged in the cash book to the United States, or as a disbursement, as other moneys paid out of cashier's office ought to have been. When the monthly return for excesses was received by the cashier from the collector, and all of them when so received, the cashier added the amount at the end of the day to the deposite list, which helped to increase the amount deposited by the cashier with the collector. In most instances, the Treasury remitted to the collector for the excesses by a draft upon himself, when Mr. Hoyt would hand the cashier his own check for the amount, which was the same as cash, and counted as such. There were a large number of deposites which were for an amount less than the duty, as it afterwards turned out; these were called short deposites; some were short in small amounts, and some were for several hundred dollars, and if Mr. Hoyt did not collect the difference between the duties and the amount deposited, it was his loss. These deposites were received in cashier's office, and Mr. Hoyt knew nothing of them. They were not made with him, but with the cashier, as all other moneys were received by him. There are a great many of those short deposites yet uncollected, or were when witness left the custom-house. Those unsettled were generally made by transient persons, who could not be found. They happened in this way: the invoice and entry would represent the goods of one character, and the amount of duty for the purpose of receiving the deposite would be estimated accordingly; but when the goods were examined, they would turn out to be of a different character, and the duty would exceed the deposite. The return upon such examination would not be made till the officer made the return for the whole ship, and in the mean time the persons had the goods, sold them, and left the country perhaps; many of such persons the cashier could not find, and of course could not collect the excess of duty over the deposite, but Mr. Hoyt would be charged with the whole duty. This might happen without any negligence in the cashier's office, but by the fraud of the importer. Mr. Hoyt was never consulted as to the amount of deposite demanded.

On being shown a book containing a detailed account of the deposite lists, representing the amounts deposited by cashier with collector, from May 1st, 1838, to March 2d, 1841, inclusive, and asked whether he had compared said deposite lists with said book, and if he had footed up the same, and what was the gross amount thereof, he answered that he had compared said lists, and had footed up the same in connection with Mr. Brown, and that these footings were $28,566,993 89. That amount included $35,793 68 received by Mr. Ogden, the cashier, prior to the 1st of May, 1838.

George A. Brown, being again called by defendant, testified that he had compared said book with deposite lists in company with Mr. Tif-

fany, and that they amounted to the sum stated by him, including the amount received from Mr. Ogden prior to the 1st day of May, 1838.

Hamilton Bruce, being called and sworn as a witness on the part of the defendant, testified that he now was, and had been since May, 1838, a clerk in the custom-house. He belonged to one of the desks where the duties on mercandise were liquidated. He succeeded Mr. Tremaine in that situation. Tremaine had been in the custom-house for many years, attending to that branch of business. When I succeeded him, I found some entries in his desk whereon the collector had been charged with more money than he had received. I made up a statement of the entries, in which Mr. Hoyt was charged with about $300 more than he received.

On being cross-examined by counsel of plaintiff, the witness said he had never compared these entries with impost book, but the impost clerk would impost according to the corrected entry, or as the duty should be, lest the error should be detected at Washington, where the reputation of the auditor's department of the custom-house would suffer. Errors are very likely to be discovered in the impost department. The errors I speak of could not profit the clerk who made them.

George F. Tallman was called and sworn as a witness on part of defendant, who testified that he was appointed, as the successor of Mr. Bowne, a commissioner on the part of the United States for the new custom-house in New York, soon after the 4th of March, 1841, and he was allowed by the United States one per cent. commission for disbursing the public money for completing the building.

The counsel for defendant here introduced the book of "General Accounts," otherwise a leger, from the custom-house, read in evidence to the jury.

Extract from book called "General Accounts," being the last account in said book under the administration of J. Hoyt, collector.

Dr.	Suspense Account.			Contra.			Cr.
1841.				1841.			
March 2	To duties on merchandise.....	110	$24,456 36	March 2	By interest on bonds.....	88	$2,544 36
	clerks' salaries.....	109	2,158 16		balance.....		29,039 35
	sales from public store.....	58	4,969 19				
			$31,583 71				$31,583 71

The defendant here introduced a record of a pending suit in the superior court of the city of New York, wherein Leonard J. Wyeth, and others, composing the firm of Wyeth, Cripps & Co. were plaintiffs, and Jesse Hoyt, the present defendant, was defendant, which suit was brought to recover from that defendant, the amount of a draft referred to in the letter of the Treasurer of the United States, under date of April 3, 1840, already in evidence, which said draft was for the sum of $7,633 83, and was dated on the 25th day of March, 1840. The defendant then called Benjamin F. Butler as a witness, who being sworn, testified that he was employed as counsel by the defendant in the month of June, 1840, to defend a suit which had been brought against him by Leonard J. Wyeth, and others, to recover the amount of the draft alluded to. It was alleged by Wyeth & Co., that the draft had been stolen from the post office, and their names forged upon it, and afterwards presented at the custom-house, and paid by Mr. Hoyt; that it had been so paid by Mr. Hoyt's check on the State Bank; Wyeth & Co. afterwards brought a suit against that bank, and the witness was employed also as counsel for the bank. The cause against the bank was noticed for trial after Mr. Hoyt was out of office, and it was compromised by the bank. The suit against Mr. Hoyt has not been formally discontinued, but the settlement with the bank might be considered as disposing of the suit against Mr. Hoyt. The witness has not been paid his costs in the suit of Mr. Hoyt.

The counsel for plaintiffs called a witness to prove, whereupon it was admitted that the defendant had received as profit on a storage account while he was in office, the sum of $30,000, and the like amount for his share of forfeitures.

The court requested that it might be furnished with a statement in writing of the claims of both parties, and the counsel of the respective parties introduced and laid before the court and jury the following statements:

The plaintiff's counsel furnished to the court and jury a statement of the amount of balance as struck by the comptroller, and the items of the account rejected by the comptroller, as follows:

Balance of account as certified	$226,295 60
1. Duties claimed as forfeiture for 4th quarter, 1838, and 1st and 3d quarters of 1839. Allow two-thirds the amount distributed	5,749 15
2. Revenue cutter disbursements. Lieut's Brushwood and Shattuck	7 50
3. Overcharge for commissions	0 55
4. Revenue cutter disbursements. Lieut. Frazier	62 62
5. Amount overcharged for markers' expenses	254 97
6. Paid Lieut. Shattuck	6 06
7. George A. Wasson and others	1,516 33
8. Another for same person	251 00
9. Expenses paid measurers and gaugers not legal, but allowed because paid under order of Secretary of Treasury	9,543 43

10. Costs paid B. F. Butler	$5,229 98
11. Costs in case of David Hadden and others	213 03
12. 4 cases vs. Hoyt suspended	175 00
13. Overcharged for bonds in suit cancelled by warrant from Secretary of Treasury	1,203 45
14. Charged in 1st quarter, 1841. Expenses of fire commissioners	180 50
15. Emolument claimed for 1838. The claim is for whole compensation for part of the year ensuing	1,063 84
16. Charged by him for fees	36,212 71
17. Amount overcharged for light-house disbursements	70 48
18. Commissions for accepting and paying drafts of Treasurer	201,500 00
19. Duty on goods seized for undervaluation not credited or accounted for	14,035 29

The defendant introduced the following statement:—

Amount claimed by the United States per official transcripts		$226,295 60
Deduct difference in commission consequent on other differences		963 00
Apparent claim of United States		225,332 60

Against which the defendant has shown errors, viz:—

Smith, Thurgar & Co., twice charged	$1,703 33	
Specific errors in books	33,853 87	
Specific errors in quarterly accounts current	109,469 05	
Amount actually expended in public business now disputed by the United States	17,594 03	
Duties part of forfeiture	19,784 45	
Fees in controversy $1063 84, $36,212 71	37,276 55	
Balance exclusive of claim for commission	5,651 32	
		225,332 60

Against the apparent balance of $5,651 32, Mr. Hoyt claims commissions, $201,580.

He also relies in the difference between the cash account he has vouched and the quarterly account current, as proving that there are other overcharges and errors at least equal to any cash deficiency that may be alleged to exist; which cash account, as appears in evidence, is as follows:

Total amount deposited by cashier with collector - $28,566,993 89

Paid as follows, by collector, viz:

Treasurer's drafts, as per transcripts - $22,532,510 04

Deposites in bank to credit of Treasurer do.	$380,000 00	
Deposites by collector with receiver general do.	2,792,500 00	
		25,705,010 04
		$2,861,983 85
Paid by collector in his checks from 1st May to 21st November, 1838, to Ogden, cashier	355,138 28	
Do. after 21st November, 1838, to Waters, cashier, per his statement	2,553,996 02	
	2,909,134 30	
Overpaid by collector (of which fees are $37,276 55)	47,150 45	
		2,861,983 85

The controversy, it will be seen, embraces subjects under each of two heads.

I.—Errors in the accounts, presenting questions upon—

1. The mode of proof.
2. The effect of the testimony. These have been partly discussed on points of evidence and in the opening of different subjects of testimony. The questions under this head involve points as to the application of principles already stated.

II.—Differences appearing on the face of the official statement, viz:

Commissions		$201,580 00
Fees	$1,063 84 36,212 71	
		37,276 55
Duties part of forfeiture		19,784 45
Amounts actually disbursed:		
Taxed costs	$4,268 01	
Counsel fees	1,350 00	
Prosecutions in other districts	1,767 33	
Markers, measurers, and gaugers	9,798 40	
Clerk fire commissioners	180 50	
Six other petty items	229 17	
		17,594 03
Bond Moller & Oppenheimer		1,203 45
Total apparent differences		$277,438 48
From which deduct—		
Credits admitted in official statement	$11,089 19	
Error duties, Smith, Thurgar & Co.	1,703 33	
Balance defendant's last account current	41,016 69	
		53,809 21
Remains claimed by the United States		$223,629 27

Under the several heads of—
1. Commissions disputed.
2. Fees disallowed.
3. Duties claimed as part of forfeiture.
4. Disbursements disputed.

Parts of the items under the last two heads were allowed to the defendant in official adjustments of his accounts prior to those in which they were disallowed by the accounting officers of the Treasury Department. On the faith of these allowances, subsequent payments of a similar character were made by the defendant before notice of any change in the views of the Department. It will be contended that the defendant is entitled to credit for all such items, independently of the abstract question of the regularity of the charges on original grounds.

1. As regards the claim for commissions on the surplus amounts of public money remaining on deposite with the defendant, and paid out upon Treasury drafts, it will be contended that under the Treasury circulars of May and June, 1837, and June, 1838, and special instructions to the defendant of 2d May, 1838, and the course of business under them, the defendant was required to perform, and did perform, extra official duties, and assumed responsibilities which were not of the class embraced in the limitations, contained in the 18th section of the act of 7th of May, 1822, ch. 107; and that he is therefore entitled to the reasonable and ordinary compensation and indemnity therefor.

2. The sum of $36,712 71, fees disallowed, were rejected by the accounting officers, on the ground that "*fees*" are embraced in the term "*emoluments*," as used in the limitation clauses of the acts of 1802, ch. 37, and 1822, ch. 107, which proposition is denied on the part of the defendant. It will be contended that the act of 3d March, 1841, (Session Laws, p. 32,) passed the day after he went out of office, was the first enactment by which there was any limitation imposed upon "fees," in the proper sense of the term.

3. Under the 89th section of the Revenue Collection act of 1799, upon informations for forfeitures, the property libelled may be restored to the claimant on a bond or stipulation for its value, ascertained by an appraisement directed by the court, and is delivered to the claimant on his producing the collector's certificate that the duties have been paid, as in the case of goods legally entered. The practice in New York has been for the court to direct an appraisement on the same footing as that which is directed by the 66th section of the same act, to ascertain the foreign value of goods subject to ad valorem duty. The bond being thus taken for the *foreign value*, it has been thought that the duties formed a part of the entire value; and, therefore, in case of condemnation, a part of the forfeiture. This idea has been acted upon in the custom-houses of New York and Philadelphia, and has received the explicit sanction of the Treasury Department. In two official adjustments of Mr. Hoyt's accounts portions of the amount now in controversy were allowed to him. The officers of the Department, on re-

viewing the subject, conceived that forfeited goods were not exempt from the payment of duty, and that the appraisement under the 89th section should not be made at the foreign value, but at the American value. They therefore rejected the claim in cases subsequent, and also in those prior to this new view of the question.

4. The points as to the disputed items of disbursement are sufficiently apparent in the statement of their several heads and amounts.

The following account current, made up by Mr. Hoyt, shows how he considers the account as standing:

DR. *The United States in account with Jesse Hoyt, late collector.* CR.

To error duties, Smith Thurgar & Co., twice charged		$1,703 33	By amount claimed by U. S.	$226,295 60	
errors in books specifically designated		31,086 90	Less difference in commissions	963 00	
errors in quarterly accounts current		109,469 05			$225,332 60
(Two last amounts do not include the claims of Mr. Hoyt, arising out of the proof that he had disbursed all the money which came into his hands.)			balance due J. Hoyt		192,097 87
To amounts expended in public business now disputed by the U. S., viz:					
Taxed costs	$4,268 01				
Counsel fees	1,350 00				
Prosecutions in other districts.	1,767 33				
Markers, measurers, and gaugers	9,798 40				
Clerk fire commissioners	180 50				
Other petty items	229 17				
		$17,594 03			
To duties, part of forfeiture		19,784 45			
fees disallowed in official transcript		36,212 71			
commissions, 1 per cent. on $20,158,000.		201,580 00			
		$417,430 47			$417,430 47

704.
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And the counsel for defendant further gave in evidence other matters of defence to the claims of the said plaintiffs, and the evidence being thereupon closed, the counsel of the defendant then insisted and prayed the court to instruct the jury, among other things as matters of law, as follows:

1. The official transcript and accounts current on which it is founded, are only "prima facie" evidence against the defendant, and do not preclude him from proving that they do not exhibit the true state of his liability to the United States.

2. The defendant's letter of 30th June, 1841, is to be read with, and as a part of, the account current by which it was accompanied, and he is entitled to the benefit of its contents as cotemporaneous qualifications of the admissions and statements contained in the accounts.

3. The defendant is at liberty to show that the accounts were prepared upon the plan of the instructions of the Treasury Department, communicated to collector under the act of Congress authorizing the Department to regulate the form and manner of keeping them.

4. He is at liberty to show how far, and in what particulars, accounts thus kept and rendered exhibit the character and extent of his liability, and to what extent they answer, and were intended to answer, collateral purposes.

5. He is at liberty to show errors, omissions, or over-charges in the accounts rendered, or that entries have been suppressed or untruly made, or that he is charged with money which has been wrongfully withheld by subordinates in the custom-house, or by other persons.

6. He is not legally responsible to the United States for the consequence of acts or omissions of other persons, which he could not by ordinary vigilance have detected and prevented.

7. In defining the degree of vigilance which is to be deemed ordinary vigilance within this rule, the jury are at liberty to take into consideration the testimony as to the extent and variety of the details of the duties of his office, and the difficulty or impossibility of personal attention on his part to the details of the accounting department of the custom-house.

8. To the proof of errors in detail, the defendant is at liberty to superadd evidence of errors in gross, so far as such proof may tend to show that the defendant is charged with a greater amount of cash than he was properly accountable for.

9. If the defendant has proved, to the satisfaction of the jury, what amount of money came to his own custody or possession during his whole term of office, and has discharged himself of this amount, by proving its faithful and appropriate disbursement for account of the United States, this testimony may be taken into consideration by the jury, as tending to prove that he is charged with more money than he is properly accountable for.

10. The defendant is, in this respect, entitled to indulgent and favorable consideration, as to the character of the proof of errors in the accounts, if the jury believe that, by the acts or omissions of others, he was deprived of the intended checks and means of testing the accuracy of the accounts in the cash returns, and the accounts in the naval office.

11. It is not necessary for the defendant to prove that credit was claimed at the Treasury Department, for errors now shown in the accounts, where the defence operates by way of traverse denial, or impeachment of the case in chief of the plaintiffs.

12. By the instructions of the Treasury Department, and course of business under them, as to the retention and disbursement of the surplus amounts of public money remaining with the defendant as the banker or fiscal agent of the Government, the duties performed, and responsibilities assumed by him are extra-official, for which the jury may allow him such reasonable compensation and indemnity as they may find him entitled to therefor.

13. The fees of office, under the act of 1799, sec. 2, payable by persons concerned in trade and navigation to the collector for defined services, and not forming a deduction from invoices of the United States in his hands, are not embraced in the term "emolument," as used in the limitation clauses of the acts of 1802, ch. 37, and 1822, ch. 107; and consequently the defendant is entitled to credit for the items in controversy under this head.

14. If the jury believe that the forfeited goods, as to which one-half of the amount of duties is in controversy, were restored to the claimants upon a stipulation or bond for their value, estimated as at the place of export, and that this mode of estimating was adopted by the court, on the ground that the amount of duties constituted a part of their entire value, and distribution after condemnation ought, in law and in equity to be made accordingly, and the defendant should receive credit for the amounts in controversy under this head.

15. There has been no legal evidence in support of the claims of the United States, as to the items under this head, mentioned in the additional or supplemental adjustment of 28th December, 1842.

16. After the unconditional allowance at the Treasury Department of credits to the defendant in official adjustments of his accounts, the disallowance and rejection of the same credits by the accounting officers of the Department in subsequent adjustments was unofficial, unauthorized, and irregular, and did not constitute legal rescision of the credit.

17. Similar payments afterwards made by the defendant, on the credit of these allowances, and before the receipt of notice of any change in the views of the Department, should be credited to him, independently of any decision of the abstract question of their regularity on original grounds.

18. If the defendant, in good faith, paid accounts presented in due form by officers of the Government authorized to present them, and to receive the amounts, he is not to be held responsible as a guarantor, that such amounts were in every instance strictly chargeable as between such officers and the Government, in the absence of evidence of culpable inattention or remissness on his part.

And the counsel for the plaintiffs insisted to the contrary, and prayed the court to charge the jury in conformity with the following propositions of law:

1. The collector is the officer who receives all the duties; is conse-

quently chargeable with the whole amount, and can discharge himself from that liability only by showing duty bonds unpaid, and cash paid to, or legally for, the Government.

II. The certified accounts from the Treasury Department being made up from the collector's quarterly returns, and agreeing with the quarterly accounts, except in the items specifically disallowed by the comptroller, are prima facie evidence that the amount stated as the balance is due from the collector to the Government.

III. The items disallowed by the comptroller are the only items of account in issue, being the only items on which the collector's statement of the amount differs from the comptroller's statement of them.

IV. The collector can discharge himself from the balance stated by the comptroller, only—

1. By maintaining, by facts or law, the validity of the items rejected by the comptroller; or,

2. Proving, by the clearest evidence, error in some other item in the account with which he charged himself in his quarterly accounts.

V. There is no evidence given in the cause that impeaches the accounts, so as to authorize a jury in their verdict to diminish the balance stated by the comptroller, except so far as the defendant has given clear proof of specific errors.

VI. Items of difference not allowable:

1. Wasson's bill, being rejected items Nos. 7 and 8

2. Fees paid B. F. Butler, being rejected items Nos. 10, 11, and 12.

3. Measurers and gaugers' expenses, being rejected item No. 9.

(The several items rejected by the comptroller, and numbered in the foregoing statement on the part of the plaintiffs, Nos. 7, 8, 9, 10, 11, and 12, being allowed to the defendant by the jury, under the charge of the court, do not form any part of the exceptions, and this part of the prayer of the plaintiff's counsel is therefore omitted.)

4. Collector's fees. They are subject to the limitation in the act of 7th May, 1822, as emoluments of office.

5. Duties on forfeited goods. They are not penalty, and collector is entitled to no part of them.

6. Commissions for paying drafts:

1. Paying drafts of the Treasury is a legal duty, incident to the office of the collector, and is a service for which the fees and per centage specified in this act is the only compensation allowed by law.

2. The limitation to the emoluments of office precludes any claim for commission for paying the drafts of Government.

Whereupon the court then charged the jury, in conformity with the first, second, third, fourth, and fifth propositions of law, as above submitted on the part of the plaintiffs, and respecting the items of account contained in the above statement, also submitted by the plaintiffs, the court charged the jury that items numbered 2, 3, 4, 5, 6, 13, 17, involved no question of law, and the jury would upon the facts determine whether all or any of them had been properly rejected by the comptroller; that, as to item 1 in said statement, being a claim for half the

duties upon goods forfeited for undervaluation, though not a legal claim, the jury should allow it to the defendant, inasmuch as it had been distributed, and such distribution sanctioned by the Treasury Department; that they should also allow to the defendant the items numbered 7, 8, and 9, as they had been paid by defendant, and as such payments had been sanctioned by the Treasury Department, and items numbered 10, 11, 12, and 14, as properly chargeable to the Government.

The court further charged the jury that the item number 15, in said statement, was an illegal charge, being a claim to retain a whole year's compensation for a part of a year; that item number 16, in said statement, was an illegal charge, being a charge for fees as something distinct from and independent of the emoluments allowed and limited by law; that item number 18 was an illegal charge, being a claim for commissions for acccepting and paying the drafts of the Treasury; and that item number 19 was an illegal charge, being a claim for half the duties for goods seized and forfeited for undervaluation; and that none of said items, numbered 15, 16, 18, and 19, should be allowed to the defendant in account by the jury.

The court further charged the jury that there was one item in the account of the defendant with the plaintiffs of great importance, respecting which the defendant contended that he was charged twice with the amount, and that was an item of about $109,000 for the excess of deposites for unascertained duties. It is the practice of the merchants, when they want their goods immediately, to deposite with the collector a sum sufficient by estimate to cover the duties, and when the duties are ascertained, the merchant calls for repayment of any excess of the deposite over the ascertained duties, which excess is thereupon paid over by the collector to the claimants. The whole amount of the estimated duties deposited having at the time of the deposite been paid by the collector, under requirement of law, into the Treasury, is credited to the collector by the Government in his account, but in that account he is only charged with the actual duties. The collector repays the excess to the merchant out of his own money, and the Government afterwards returns it to him by a warrant from the Treasury, and charges him with that warrant. If the Government had retained the whole sum deposited, and at the same time had required the collector to pay back to the merchant the excess, there would be some ground to sustain the allegation of the defendant; but as it is, there is no ground for the allegation of the defendant of a double charge or error in this sum, and the jury are wholly to disregard this claim, and make no allowance for it whatever.

The court further charged the jury that the book of general accounts, and the cash book of the custom-house, introduced before the jury as evidence by the defendant, were the books of the defendant, with the keeping of which the plaintiffs had no connection, and over which they had no control; and that, if there was any discrepancy between them, it was for the defendant and not the Government to explain such discrepancy.